

CONTENTS	Page
A Bill for an Act to Establish the Attorney General's Chambers and Provide for the Discharge of Duties and the Exercise of Powers and matter connected thereto.....	282
A Bill for an Act to Amend Various Laws and make better provisions thereof and other matters connected thereto.....	312
A Bill for an Act to An Act to Amend the Zanzibar Ports Corporation and matter connected thereto.....	315
A Bill for an Act to Establish and Manage the Zanzibar Utilities Regulatory Authority, for the Regulation of Utility Service in the Interest of Customers and Provedersof Utility Service in Zanzibar and matter related thereto.....	319
A Bill for an Act to Provide for the Establishment of Zanzibar Commercial Court and other matter connected thereto.....	350

NOTICE

The Bills following hereunder shall be presented before the House of Representatives for the first reading which will start its session on 16th day of January, 2013, and is gazetted for the public notice incorporating together with their object and reasons.

ZANZIBAR
24thDecember, 2012

(Dr. ABDULHAMID Y. MZEE)
*Secretary to the Revolutionary
Council and Chief Secretary.*

A BILL
for

**AN ACT TO ESTABLISH THE ATTORNEY GENERAL'S
CHAMBERS AND PROVIDE FOR THE DISCHARGE OF
DUTIES AND THE EXERCISE OF POWERS AND MATTERS
RELATED THERETO**

ENACTED by the House of Representatives of Zanzibar

PART I
PRELIMINARY PROVISIONS

Short title
and
Commence-
ment.

1. This Act may be cited as the Attorney General's Chambers (Discharge of Duties) Act of 2013 and shall come into operation immediately, upon being assented to by the President.

Application.

2. (1) This Act shall apply to:

- (a) Subject to the provisions of subsection (4) of this section, State Attorneys, Legal Officers, Law Clerks and any other public officers who perform or discharge legal functions in the Chambers;
- (b) any public officers or persons who, by virtue or nature of their job or engagement provide or assist in the provision of legal service to public service institutions;
- (c) public service institutions which are required to seek or consult for legal advice from the Chambers;
- (d) generally in the conduct and administration of legal services to the public service;
- (e) any other person who or institution which the Minister, in consultation with the Attorney General, has declared to be covered by this Act.

(2) The provision of legal services to public service institutions, administration of the Office, the discharge of duties, the exercise of the powers and the relationship of the Chambers with other officers discharging legal duties in the public service shall be governed by this Act.

(3) Notwithstanding the provisions of subsection (2) of this section, this Act shall not apply to the Judiciary and its officers nor to the Office of the Director Of Public Prosecutions and its officers on all matters reserved to those offices by the Constitution or by any relevant law, except that it is hereby expressly provided that this Act shall equally apply to those Offices on all matters of procedure for which those Offices are required to seek or obtain legal advice or services from the Chambers.

(4) The Minister may, in consultation with the Attorney General, by notice in the gazette, exclude wholly or partially any public institutions or agency from the provisions of this Act and make alternative arrangement for such institution or agency to obtain or manage its legal service on such terms and conditions he shall prescribe

3. In this Act, unless the context requires otherwise -

Interpretation.

"Assistant Law Clerk" means a person holding at least a duly recognized certificate in law who is employed in the public service to assist in the provision of services which are ordinarily conducted by the Law Clerk;

"Attorney General" has the meaning ascribed to it under section 55 of the Constitution, and shall include, the Deputy Attorney General and State Attorneys when discharging the duties or exercising the powers of the Attorney General;

"Chambers" means the Attorney General's Chambers established under section 4 of this Act;

"Code of Ethics" means the code of Ethics for State Attorneys and Legal Officers in the public service;

"Constitution" means the Constitution of Zanzibar, 1984;

"Court" means a court of law and includes a tribunal;

"Government" means the Revolutionary Government of Zanzibar,

"Government Agency" means any public service institutions recognized under the Public Service law to be a government agency;

"Inter-ministerial Committee" means Committee of Principal Secretaries established under section 39 of the Public service Act 2011.

"Internship" means a practical legal training whether provided under the programs of this Act, law school or otherwise recognized as such by the Attorney General;

"Law Clerk" means:

- (a) a holder of at least duly recognized Diploma in law employed in the public service to serve in the provision of relevant legal service; or
- (b) qualified Secretary or Stenographer who has acquired special skills in the preparation of legal documents, Bills, Statutory Instruments and management of records of such documents and instruments appointed by the Attorney General as Law Clerk;

"Legal Officer" means a holder of a duly recognized degree in law employed in the public service other than the Office of the Director of Public Prosecutions and the Judiciary to serve in the provision of legal service;

"Legal services" includes provision of legal advice, representation before the courts of law, drafting of legal documents, legislative

drafting and other related services rendered under a contract of temporary engagement, whether written or otherwise, or under a contract of service;

"Minister" means the Minister responsible for Legal Affairs;

"President" means the President of Zanzibar and Chairman of the Revolutionary Council;

"Public service" for the purpose of the discharge of the duties of the Office of the Attorney General, means the service defined as public service under the Public Service Act;

"qualified contract" means a contract which by reason of its value, importance or circumstances is subject to the scrutiny of the Chambers as the Attorney General may direct;

"State Attorney" means a person employed or appointed as such under sections 10 and 11 of this Act; and includes.

PART II ESTABLISHMENT AND ADMINISTRATION OF THE CHAMBERS

4.(1) There is hereby established an Office to be known as the Attorney General's Chambers. Establishment of the Chambers.

(2) The Chambers shall be an independent and autonomous government agency in the Zanzibar public service.

5.(1) The Attorney General shall be the Head of the Chambers; Attorney General.

(2) The Attorney General shall perform such general and specific functions and exercise such powers provided under the constitution, this law and other relevant laws

(3) The Attorney General shall, by virtue of his position, be the Head of the bar and shall take precedence in court in all matters wherever he appears.

(4) The provision of subsection (3) shall apply in relation to the Deputy Attorney General and State Attorney appearing in court on behalf of the Attorney General.

Appointment
of the
Deputy
Attorney
General.

6.(1) There shall be a Deputy Attorney General who shall be appointed by the President.

(2) A person shall qualify to be appointed as a Deputy Attorney General if;

- (a) he is a Zanzibari;
- (b) he possesses a minimum of a first degree in law from an institution of higher learning accredited or recognized as such by the competent authority;
- (c) has a relevant experience for at least seven years; and
- (d) is a person of proven integrity.

(3) The Deputy Attorney General shall be an officer in the public service and as such all matters relating to entitlements, termination and retirement from service shall be governed by the relevant public service laws and regulations

(4) The Deputy Attorney General shall, prior to taking office, be sworn in before the President.

Functions
of the
Deputy
Attorney
General

7.(1) The Deputy Attorney General shall be the principal assistant to the Attorney General and shall perform such other duties as may be assigned by the Attorney General.

(2) Except where the President decides otherwise, where the Attorney General is temporarily unable to perform his duties for reasons

of either extended absence from office, illness or other reasons, the Deputy Attorney General shall perform the duties and exercise powers of the Attorney General. PROVIDED that, and for avoidance of doubt, the provisions of this subsection shall not be construed as authorizing the Deputy Attorney General to represent the Attorney General in any organ in which the membership of the Attorney General in such organ is prescribed by the Constitution.

8. (1) The Attorney General shall be responsible for efficient and effective operation of the Chambers and may, for that purpose, and in consultation with the relevant public service authority, organize the structure of the Chambers in such units as he may deem necessary or he may recommend the establishment of such Departments he may deem appropriate. Structure of
the
Chambers.

(2) Where the Departments are established, the appointment of the heads of such Departments shall be made in accordance with the relevant public service law.

(3) Where the Attorney General establishes Units either within the Departments established under the provisions of subsection (2) of this section or Units without the Departments, he shall appoint heads of such Units on such terms and conditions as he deems appropriate and in accordance with the Scheme of Service of the Chambers.

(4) Functions of the Units established under this section shall be as described under Regulations to be made by the Attorney General.

9.(1) Recruitment of the staff of the Chambers, both professional and supporting shall be made in accordance with the public service regulations except that in any case the recruitment procedures may be adopted that will ensure obtaining the best personnel. Recruitment
of Staff

(2) For the purpose of upholding integrity of the Chambers, a person, except on Presidential appointment, shall not be transferred to or from the Chambers without prior consent of the Attorney General.

(3) For the purpose of subsection (2), the persons covered shall consist of State Attorneys, Legal Officers, Law Clerks, and Assistant Law Clerks.

State
Attorneys,
Legal
Officers
and Law
Clerks.

10.(1) Any lawyer employed in the Chambers shall initially be employed as a Legal Officer.

(2) The Attorney General may by notice published in the gazette appoint any Legal Officer employed in the Chambers as a State Attorney and assign him with duties of a State Attorney if satisfied to have attained adequate experience and aptitude requisite of a State Attorney

(3) A person appointed to perform functions of a State Attorney under this Act shall, without prejudice to the powers and functions of other officers within the Chambers, perform functions and discharge duties under the directives of the Attorney General.

(4) Every State Attorney, shall immediate after being appointed under this Act, sign a declaration of acceptance of appointment to signify his understanding of the Code of Conduct of State Attorneys and willingness to be bound by the terms of the Code of Conduct;

(5) The declaration of acceptance shall be in the prescribed form made by the Attorney General and published in the Gazette.

(6) The Attorney General may make rules and guidelines for:

- (a) Acquisition of qualification of a State Attorney;
- (b) Code of conduct for State Attorneys and Legal Officers;
- (c) the manner in which appointment of State Attorney may be suspended or revoked;
- (d) Generally on the carrier development, discipline and conduct of State Attorney and Legal Officers

(7) Any Legal Officer whose appointment as State Attorney has been revoked, unless dismissed or terminated from service, may continue to serve as a Legal Officer or assigned other duty as the disciplinary authority may direct

(8) The Chambers may employ such number of Law Clerks and Assistant Law Clerks as the Attorney General may deem appropriate

11.(1) Notwithstanding the provision of section 12, the Attorney General may appoint any Legal Officer from any public service office as a State Attorney to perform specific or general functions of the Attorney General within the scope prescribed in the letter of appointment.

Deployment
of State
Attorneys
and Legal
Officers.

(2) A Legal Officer appointed as State Attorney under subsection (1) shall be entitled to all the rights and privileges of a State Attorney

(3) Notwithstanding anything under this Act, all matters regarding administration, performance, discipline or transfer in respect of a State Attorney appointed under subsection (1) of this section shall be under the control of the Attorney General in collaboration with a respective Head of Institution or Agency in which he is employed;

(4) The Attorney General may direct any Legal Officer or law clerk who is employed under any public service institution to undertake any work relating to the provision of legal service to the public service in any case he may deem appropriate to do so

(5) The Attorney General may, at his own discretion, place any State Attorney or Legal Officer under his control within any public service institution in which he deems appropriate to provide legal service to such institution and enable efficient coordination between the institution and the Chambers for the purpose of improving safeguards of government interests

12.(1) The Attorney General shall be responsible for career development, skills and competence improvement of all State Attorneys, Legal Officers and Law Clerks to whom this Act applies and may pursuant to the foregoing duty, develop or adopt programs for

Skills
development
and
accreditation.

development of skills and competencies of State Attorneys, Legal Officers and Law Clerks and make them mandatory for accreditation and promotion in the public service legal practice

(2) The programs provided under subsection (1) may be conducted under the auspices of the Chambers or in collaboration with any training institution and the Chambers may award certificates either alone or in collaboration with training institution, to participants of the program who have satisfied the terms of the program

Budget and funds of the Chambers.

13.(1) The Chambers shall hold its own budget Vote through which all the funds appropriated or accrued for the use of the Chambers shall be disbursed.

(2) The Paymaster General shall appoint an accounting officer for the Chambers' Vote and the Accountant General shall, allocate adequate staff to undertake the accounting work for the Vote.

(3) The funds of the Chambers shall include:

- (a) such amount of money appropriated by the House of Representatives in each financial year for the use of the Chambers;
- (b) grants, donation and other funds received by the Chambers from other eligible sources;
- (c) money accrued or earned by the Chambers from publications, trainings, consultancies and other activities conducted by the Chambers

PART III

CONTROL AND PERFORMANCE OF FUNCTIONS AND DISCHARGE OF DUTIES OF THE CHAMBERS AND THE ATTORNEY GENERAL

Functions of the Chambers.

14.(1) The Chambers shall, for and on behalf of the Attorney General, have the following functions:

- (a) to facilitate the execution of the functions and powers vested to the Attorney General as provided in the Constitution and other relevant laws;
- (b) to represent the Government and other public service institutions in civil litigation, arbitration and other proceedings of civil nature;
- (c) to develop and keep under review policy and practices relating to legislative drafting and drafting of non-legislative documents;
- (d) subject to relevant laws and regulations, to prepare and administer all procedures for preparation of bills, laws, regulations and other statutory instruments and cause the same to be published in the Official Gazette;
- (e) to prepare and improve legislative drafting manual to be used as guidelines to develop any legislation, rules and regulations;
- (f) Subject to the provisions of the Public Service Act, 2011 and subject to the authority of the Revolutionary Council, the Office shall draft or cause to be drafted legislative proposals for submitting the same to the inter-ministerial committee and the Revolutionary Council for review;
- (g) To provide legal advice to the Government on any legal matter; in particular matters of a civil nature including commercial and international matters
- (h) To provide legal advice to the government and public institutions in the negotiation and drafting of commercial contracts and other non-commercial agreements on behalf of the Government;

- (i) Regulate provision of legal service to the Government and other public service institutions ;
- (j) Coordinating reporting obligations to international human rights treaty bodies to which the United Republic of Tanzania is a member or on any matter which member states are required to report.
- (k) to collect, keep and disseminate to public service institutions International and Regional Conventions to which the United Republic of Tanzania is a member or signatory.
- (l) To participate in pre-contract arrangements, execution and implementation for all qualified contracts to which the Government is a party;
- (m) to provide appropriate legal support and advice to government agencies;
- (n) to conduct research on legal matters and recommend to the Government on the amendment of policy, law or and powers of executives of relevant institutions;
- (o) To conduct training on any aspect of law;
- (p) To provide any other service not inconsistent with the functions of the Chambers for the purpose of improving administration of justice whether free of charge or otherwise.

(2) The Government institutions shall not sign a qualified contract or Memorandum of Understanding before the approval of the Attorney General.

(3) Notwithstanding the provisions of subsection (1), the Attorney General in consultation with the Minister and the Minister responsible for Finance may, by Rules published in the gazette, prescribe fees to be

paid by public corporations for legal services rendered to them by the Chambers in relation to their commercial transactions and matters arising there from.

(4) Funds collected under subsection (2) shall be expended to meet efficient management of services rendered to public corporations and in particular, shall be used to pay incentives to attorneys rendering such services, conducting briefing and legal reviews of matters involved in those transactions and such other matters which are directly related to the issues at hand.

15.(1) Subject to other provisions of this Act, the Attorney General, the Deputy Attorney General and State Attorneys shall, for the purpose of any law regulating legal practice be legal practitioners and shall as such have all the right, privileges and be subject to professional ethics and restrictions of qualified legal practitioners admitted to the roll of the bar

Right to legal practice and the Right of audience.

(2) Any Legal Officer authorized by the Attorney General under the provisions of section 11(4) shall be deemed to be a legal practitioner on temporary terms and until such authorisation expires or is revoked such Legal Officer shall enjoy and exercise all the rights, privileges and restrictions of a qualified legal practitioner admitted to the roll of the bar

(3) Notwithstanding the provisions of any written law to the contrary, the Attorney General shall have the right of audience in proceedings of any civil suit, inquiry on administrative body which the Attorney General considers -

- (a) to be of public interest or involves public property; or
- (b) to involve the interest of the legislature, the judiciary or an independent department or agency of the Government.

(4) In the exercise of the powers vested to the Attorney General with regards to the provisions of subsection (1), the Attorney General shall :

- (a) notify any court, tribunal or any other administrative body of the intention to be joined to the civil suit, inquiry or administrative proceedings; and
- (b) satisfy the court, tribunal or any other administrative body of the public interest or public property involved,

(5) Where a civil suit, inquiry or any other proceedings is impending before the court, tribunal or any other administrative body to which the State Attorney does not have a right of audience, it shall be sufficient for such State Attorney to file a certificate of the intention of the Attorney General to be joined and the court, tribunal or any such administrative body shall immediately forward the record of the proceedings to the nearest court, tribunal or administrative body for purposes of enabling such State Attorney to appear.

(6) Upon first appearance of the State Attorney or authorized Legal Officer under subsection (3), the court, tribunal or administrative body shall afford the State Attorney an opportunity to file necessary pleadings or documents necessary for the joinder of the Attorney General in such proceedings in accordance with the procedure applicable to such proceedings.

Powers of
the
Attorney
General and
the
Chambers.

16. In the discharge of the functions under section 56 of the Constitution and under this Act, and without prejudice to any other specific powers under this Act or any other relevant law, the Attorney General and the Chambers, on behalf of the Attorney General, shall have and exercise the following general powers :-

- (a) To draft legislative proposals into Bills for enactment by the House of Representatives as well as drafting all legislative and non legislative instruments;

- (b) to prepare legal documents to be filed or submitted in court;
- (c) to litigate all cases instituted by or against Government or public officer;
- (d) To represent the Government in courts of law and tribunals in any civil suit or matter to which the Government is a party or has interest;
- (e) To call and interview any Government officer in the cause of preparation of legal documents to be submitted in Court;
- (f) To conduct a visiting scene in relation to any suit to be instituted or pending in Court;
- (g) To conduct research on legal matters relating to civil proceeding, including complains against Government, notice to sue Government, legal policy and legislative drafting and contract management.
- (h) To keep registers of cases and qualified contracts to which the Government is a party;
- (i) to summon any officer in the public service to explain any matter or provide information on such matter which is the subject of civil litigation by or against the Government;
- (j) to issue directions to any officer providing legal services in any public service institution;
- (k) to appear at any stage of any proceedings, appeal, execution or any incidental proceedings before any court or tribunal in which by law the Attorney General's right of audience is not expressly excluded;

- (l) To advise the Government on any matter of a civil nature including contracts, international agreements and treaties, Constitution and human rights;
- (m) To advise Government Ministries, Government Department and other public service institutions and organizations on legislative process;
- (n) To advise on interpretation of any enactment or international instrument applicable in Zanzibar;
- (o) To conduct internship programmes to eligible law graduates or students;
- (p) To exercise such other powers as may be necessary or incidental for effective discharge of the duties and functions of the Attorney General.

Reservation
of matters
for the
Attorney
General.

17. A State Attorney or legal Officer shall not render written legal advice in official capacity on any matter stipulated under this section without such advice being approved by the Attorney General, namely -

- (a) interpretation of the Constitution;
- (b) any matter relating to interpretation of international agreements and treaties;
- (c) any other matter stipulated by the Attorney General

Procedure
of sourcing
consultancy.

18.(1) The engagement of legal consultants by any Ministry, Government Department, public service institution or Government Agency for rendering legal services shall be made after obtaining written approval of the Attorney General.

(2) For the purpose of observing standards, keeping institutional memory on the matter, maintaining quality or capacity building, the Attorney General may -

- (a) direct State Attorney or any legal officer to whom the provisions of this Act apply to participate in the work of the consultant;
- (b) prescribe the terms and conditions for State Attorney or any legal officer who participates in such consultancy.

19.(1) The Attorney General shall exercise powers and issue directives to any State Attorney or Legal Officer to whom this Act applies for the purpose of maintaining standard and uniformity. Provision regarding.

(2) The directives issued pursuant to the provisions of subsection (1) shall be in such form and manner as the Attorney General may determine.

(3) The Attorney General may, after consultation with relevant Public Service Authority, recommend a Scheme of Service for officers to whom this Act applies for the purpose of maintaining a common career development.

(4) The Attorney General may, after consultation with relevant Authorities, recommend remunerations for officers to whom this Act applies.

20.(1) The legal advice of the Attorney General given pursuant to the provision of this Act shall remain the legal position of the Government on the matter unless the President directs otherwise or it is otherwise revised by a court of competent jurisdiction. State Attorneys and Legal Officers.

(2) The Attorney General may review any legal advice given by himself or by any officer made on his behalf.

21.(1) The Attorney General may issue comprehensive guidelines on the manner in which litigation for and on behalf of the government shall be handled Opinion of the Attorney General to be a position of the Government.

(2) The guidelines issued under subsection (1) shall be binding upon all public officers who are involved in the handling of litigation for and on behalf of the government.

(3) The Attorney General may issue any other specific, general or temporary directive on any matter relating to handling of litigation in addition or in substitution of the guidelines issued under subsection (1).

(4) The Attorney General may initiate any proceedings against any public officer alleged to have committed negligence in handling litigation under the Government Proceedings Act and may take further measures including settlement to recover any amount due to the government as a result of such negligence by public officer.

(5) The Attorney General may, upon assessing the evidence in relation to any suit whether filed or impending, and in consultation with the relevant institution, enter in to arrangements to settle the matter out of court.

(6) The Attorney General may, in consultation with the Minister responsible for finance, make arrangement for provision of adequate resources required to handle government litigation including resources required for recovery of government claims and settlement of claims against the government arising from such litigation as promptly as possible.

Management
of
litigation.

22.(1) The Attorney General may for the purpose of safeguarding government interest in commercial engagements do any of the following in relation to government legal documents.

- (a) issue standard form of legal document to be used by public service institutions for various purposes including government commercial contracts, commercial settlements, memorandum of understanding, power of attorney, legal declarations, commercial conveyance and other forms he may deem desirable to issue;
- (b) adopt a standard form contract used by recognized institutions for each field of commercial engagement and may vary such form as he may deem appropriate;
- (c) issue general guidelines on drafting of legal documents;

- (d) issue guidelines on format of documents including fixing of seals, binding, type, weight and size of papers used for government legal documents;

(2) Guidelines or directives issued under subsection (1) shall be binding to public office institutions and any public officer who enter into commercial engagement or draw any legal document contrary to the guidelines issued under this section shall be deemed to have acted in a negligent manner and shall be responsible for any claim or loss that may arise;

23.(1) The Attorney General shall be responsible to determine the legislative drafting policy and in so doing, he shall do the following:

Drafting of government legal documents.

- (a) issue guidelines on basic drafting style, format of statutory instruments and related instruments;
- (b) issue guidelines on non statutory instruments;
- (c) issue manual on legislative drafting;

(2) The Attorney General shall be responsible for authorisation of printing format of legislative instruments, codification and consolidation of statutes, publication of statutes and issue of new edition of printed statutes and statutory instruments;

(3) Any printed material whether hard or electronic purported to contain any Zanzibar statute or statutory instrument shall be authentic for purposes of official reference if authorized or approved by the Attorney General.

(4) Notwithstanding the provision of subsection (3), a copy of statute bearing the assenting signature of the President shall be the controlling version of such a statute and where such statute is amended and consolidated under the authority of the Attorney General, a consolidated version authorized by the Attorney General shall be controlling version.

Legislative
drafting.

24.(1) The Attorney General may, for the purpose of orderly management of government commitments and expectations in commercial contracts, do any of the following:

- (a) build sufficient skills on negotiation, drafting and contract management among state attorneys, legal officers, and other relevant officers involved in the contract management;
- (b) establish a special Unit under the Office responsible for government contracting;
- (c) issue Government Contract Management Manual;
- (d) issue regular directives on best practices and any other relevant information on contract management;
- (e) prepare annual reports on government contract management practices and performance;
- (f) specify type of contract, settlement, memorandum of understanding and other engagements which by reason of their value, importance and circumstances shall qualify to be under compulsory scrutiny of the Chambers; and for purpose of this Act all of the aforementioned shall be referred to as qualified contracts;
- (g) do anything he deems appropriate in this respect

PART IV

CODE OF CONDUCT FOR STATE ATTORNEYS AND LEGAL OFFICERS

Contract
management.

25.(1) Subject to provisions of Public Services Act 2011 and its Regulations, the Attorney General may, by Rules published in the gazette, make and supervise Code of Conduct for the State Attorneys and other Legal Officers.

(2) The Principal Secretary, Head of the Government Department or Agency shall liaise with the Attorney General in the administration of the Code of Conduct in respect of Legal Officers employed in their respective offices.

26.(1) A person who breaches the Code of Conduct shall be liable to disciplinary action and the Attorney General or any other relevant disciplinary authority may impose punishment or sanction prescribed under the Public Services Act 2011 and its Regulations or under the Rules of Code of Conduct.

Code of ethics.

(2) A person who is dismissed from the public service by reason of committing a disciplinary offence under the Public Service Act 2011, its Regulations or under the Rules of Code of Conduct shall cease to be a State Attorney or Legal Officer

(3) Where a breach of the Code of Conduct is made by a State Attorney or Legal Officer employed outside the Attorney General's Chambers other than those appointed under section 12 of this Act, the Attorney General may recommend to the Principal Secretary or the Head of the Department or Agency concerned that appropriate disciplinary action to be taken against such officer.

27. (1) The Attorney General shall, develop standards of performance to be observed and achieved by every Department or Unit of the Chambers or Legal Department or Unit under any public service institution subject to this Act.

Sanction for breach of Code of Ethics.

(2) The Attorney General shall, at least once in every two years appoint a qualified person or firm to conduct performance appraisal for the purpose of determining whether the performance standards are achieved and whether such standards are adequate.

(3) Upon receiving performance appraisal report, the Attorney General shall prepare or cause to be prepared a performance report and submit the same to the Minister and other relevant authorities he considers necessary.

**PART V
MISCELLENOUS PROVISION**

Performance
appraisal.

28. Any act or thing done or omission made in good faith by the Attorney General, Deputy Attorney General, State Attorney, Legal Officer or any person performing any function, power or authority of the Attorney General under this Act or any other law shall not be subjected to civil or criminal liability at law in respect thereof.

Immunity of
Officers.

29.(1) The Chambers and the Office of the Director of Public Prosecutions shall continue to work independent of each other in the execution of their respective functions.

(2) Notwithstanding such independence, the Chambers and the Office of the Director of Public Prosecutions may enter into arrangements for cooperation for the purpose of improving their respective institutional, operational and human resource capacity, in particular, the two institutions may do any of the following:

- (a) make rotation arrangement of their professional staff;
- (b) develop common carrier and skills development programs;
- (c) conduct or engage in any other program or arrangement to achieve the purpose of this section.

(3) For the purpose of subsection (2) the Attorney General and the Director of Public Prosecutions may each appoint State Attorneys from the Chambers and the Office of the Director of Public Prosecutions, as the case may be, to serve in their respective Offices for such term and duration as agreed between them.

(4) A State Attorney appointed under subsection (3) shall, while serving in the other office, be deemed to be under continuous employment of his respective Office and as such be paid salary and other entitlements by his Office, except that during the term of such service, he shall be accountable and responsible to the respective Head of the Office in all matters relating to performance and discipline

30.(1) Notwithstanding anything in the Notary Public Decree, the Attorney General and Deputy Attorney General shall by virtue of their posts be Notary Public without any further certification.

Cooperation with the Office of the Director of Public Prosecutions.

(2) The Attorney General may recommend to the Chief Justice any State Attorney who has served for a period of not less than seven years to be certified as a Notary Public

31. The Minister may, in consultation with the Attorney General make regulations for the better carrying out of the provisions of this Act.

Attorney General and Deputy Attorney General to be a Notary Public.

32.(1) After the commencement of this Act, the Deputy Attorney shall continue in office as if appointed under the provisions of this Act until such time his appointment is renewed or otherwise terminated

Power of the Minister to make regulations.

(2) All State Attorneys and Law Clerks who are performing their duties in the Chambers shall continue to perform their duties as if they have been appointed as such from the date of their employment under the provisions of this Act.

(3) Anything done before the commencement of this Act and for which special provisions have been made for its execution under this Act shall continue to be handled as if lawfully made under this Act until such time when the special provisions under this Act is adopted for its execution.

OBJECTS AND REASONS

The main object of this Bill is to provide legislative frame work for the establishment of the Attorney General's Chambers and provide for the discharge of duties and the exercise of powers and matters related thereto.

The Attorney General is the position established by the Constitution of Zanzibar of 1984 under Section 56. According to the Constitution Attorney General is the Chief advisor of the Revolutionary Government

of Zanzibar. Other functions are prescribed by the Act of the House of Representative. However there are gaps affect the efficiency of the Office. This can only be overcome by enacting legislation.

Among the gaps are as follows:

Neither the constitution nor statute established the Office of the Attorney General.

Attorney General has no guarantee of principal assistance, practical The Deputy Attorney General is the principal assistant for the Attorney General but there is no provisions establish the position of the Deputy General, its appointment, qualifications, functions and powers. By applying Section 53 of the Constitution the President appointing the Deputy in his will. Thus this situation does not guarantee his appointment.

Other functions, duties and powers performed by the Office are not explicitly provided by the law; they are just performed from the nature of the office and practice.

There is no guidelines governs handling of important matter include litigations, legislative drafting, authenticity version of the codification and consolidation of the statutes.

There is no effective safeguarding government interest in commercial engagements like commercial contract and memorandum of understanding and commercial settlement. Government institution may adopt standard form contracts which jeopardise the interest of the government.

Engagement of legal consultant is done by the institutions that require the services without the approval of the Attorney General who are in good position to determine the competency, observing standards, maintaining quality and capacity building to Zanzibar legal personnel.

The existence structure of the Attorney General does not support the effectiveness and efficiency operation of the Office. There is no categorisation of the units for handling the function of the Office, any

State Attorney can assigned to do any of the functions make difficult to know their talent, improve the talents and the needs of the Office.

Recruitment of the State Attorney have a problem, there is no statutory acquisition of qualifications for State Attorney. Without acquire the experience and prove the competency, by virtue of being employed at the office of the Attorney General's a graduate of the Bachelor in Law is employed as a State Attorney and can be assigned with duties of a State Attorney and there is no means of revoke its position.

There is no statutory status of the Attorney General's advice to the Government and the competent institution that can revise its advice. Currently any public officer can issue advice regardless the existence advice of the attorney General on the matter.

Moreover, There is no limitation to the State Attorney and Legal Officers to the Public Institutions on matter needs legal advice, they are issuing advise in all matters include but not limited to the interpretation of the Constitution; and matter relating to the interpretation of international agreements and treaties; without prior approval of the Attorney General.

There is no link between the Attorney General and legal officers works on the public service office institutions. Either there is no power conferred to the Attorney General to assign such legal officers to perform specific or general functions of the Attorney General when there are such needs. Moreover there is no statutory instrument which confers power to the Attorney General for exercising powers and issue directives to legal officer for the purpose of maintaining standard and uniformity.

Moreover legal personnel scattered and work in different institutions, while there duties direct relate with the duties of the Attorney General, and their role have impact to the government and society, neither the Attorney General's assigned with the responsibility of nor professional organ established to ensure for career development, skills and competence improvement of all State Attorneys, Legal Officers and Law Clerks.

Finally there is no code of conduct for state attorneys and legal officers to ensure they observe the ethics and provides disciplinary if they violate the code of conduct.

This Bill is divided into Five Part and 32 sections.

Part one is about the preliminary provisions which provides for the short title, commencement, application and interpretation of the some words used in the Bill. It comprises three sections.

Part Two is about establishment of the Office of the Attorney General, its officers, their qualifications and its budget vote. It comprises sections 4 to 24. Section 4 established the Office to be known as the Attorney General's Chambers and its abbreviation is the Chambers which shall be an independent and autonomous government agency in the Zanzibar public service headed by the Attorney General. Section 6 established the position of the Deputy Attorney General, his functions provided under section 7.

Section 8 confers power to the Attorney General in consultation with the relevant public service authority, to organize the structure of the Chambers in such units or departments as he may deem necessary.

Section 9 provides for the recruitment of the Chambers' staffs both professional and supporting. It requires their recruitment shall be made in accordance with the public service regulations.

Section 10 regulates recruitment of the lawyer for the Chambers. It provides that any lawyer employed in the Chambers shall initially be employed as a Legal Officer and subsequently can acquire a position of State Attorney and assigned with the duties of a State Attorney.

Section 10(6) provides power to the Attorney General to make rules and guidelines for acquisition of qualification of a State Attorney; Code of Conduct for State Attorneys and Legal Officers; the manner in which appointment of State Attorney may be suspended or revoked; and on the carrier development, discipline and conduct of State Attorney and Legal Officers.

Section 12 assigned the Attorney General with the responsibility for career development, skills and competence improvement of all State Attorneys, Legal Officers and Law Clerks to whom this Act applies. Pursuant to this duty may develop or adopt programs for development of skills and competencies of State Attorneys, Legal Officers and Law Clerks and make them mandatory for accreditation and promotion in the public service legal practice.

Section 13 provides for the Chambers to hold its own budget Vote.

Part Three concerns with the control and performance of the functions and discharge of duties of the Chambers. It comprises section 14 to 24.

Section 14 provides the functions of the Chambers. The functions can be performed for and on behalf of the Attorney General, among them are the following:

- to facilitate the execution of the functions and powers vested to the Attorney General as provided in the Constitution and other relevant laws;
- to represent the Government and other public service institutions in civil litigation, arbitration and other proceedings of civil nature;
- to develop and keep under review policy and practices relating to legislative drafting and drafting of non-legislative documents;
- to prepare and administer all procedures for preparation of bills, laws, regulations and other statutory instruments and cause the same to be published in the Official Gazette;
- to prepare and improve legislative drafting manual to be used as guidelines to develop any legislation, rules and regulations; draft or cause to be drafted legislative proposals for submitting the same to the inter-ministerial committee and the Revolutionary Council for review;

- to provide legal advice to the Government on any legal matter; in particular matters of a civil nature including commercial and international matters; and
- to provide legal advice to the government and public institutions in the negotiation and drafting of commercial contracts and other non-commercial agreements on behalf of the Government. Regulate provision of legal service to the Government and other public service institutions; Coordinating reporting obligations to international human rights treaty bodies to which the United Republic of Tanzania is a member or on any matter which member states are required to report. to collect, keep and disseminate to public service institutions International and Regional Conventions to which the United Republic of Tanzania is a member or signatory.

Section 14 also prohibits Government institutions to enter into qualified contract or Memorandum of Understanding before the approval of the Attorney General.

Section 15 provides rights of the legal practice and audience to the Attorney General, the Deputy Attorney General and State Attorneys. Also it extends the right of audience when the Attorney General is not the party in proceedings of any civil suit, inquiry on administrative body which the Attorney General considers to be of public interest or involves public property; or to involve the interest of the legislature, the judiciary or an independent department or agency of the Government.

Section 16 provides powers of the Attorney General and the Chambers, among them are the following:

- to call and interview any government officer in the cause of preparation of legal documents to be submitted in Court;
- to summon any officer in the public service to explain any matter or provide information on such matter which is the subject of civil litigation by or against the Government;
- to issue directions to any officer providing legal services in any public service institution; and

- to conduct internship programmes to eligible law graduates or students.

Section 17 makes reservation of matters which needs the approval of the Attorney General when handled by a state attorney or legal officer namely, interpretation of the Constitution; interpretation of international agreements and treaties; and any other matter stipulated by the Attorney General.

Section 18 provides Procedure of sourcing consultancy on which it provides mandatory conditions those Government institutions shall engage the legal consultancy after obtaining written approval of the Attorney General.

Section 19 is the provision regarding power of the Attorney General to issue directive to the State Attorneys and Legal Officers for the purpose of maintaining standard and uniformity.

Section 20 provides for the status of the advice of the Attorney General. It provides that the Attorney General's advice remain the legal position of the Government on the matter unless the President directs otherwise or it is otherwise revised by a court of competent jurisdiction.

Section 21 provides the Management of litigation. It confers the powers to the Attorney General to issue comprehensive guidelines on the manner in which litigation for and on behalf of the government shall be handled, initiate any proceedings against any public officer alleged to have committed negligence in handling litigation and in consultation with the relevant institution, enter into arrangements to settle the matter out of court.

Section 22 regulates the drafting of the government legal documents, for the purpose of safeguarding government interest in commercial engagements Attorney General vested among other with the powers to issue standard form of legal document to be used by public service institutions for various purposes including government commercial contracts, commercial settlements, memorandum of understanding,

power of attorney, legal declarations, commercial conveyance and other forms he may deem desirable to issue; adopt a standard form contract used by recognized institutions for each field of commercial engagement and may vary such form as he may deem appropriate.

The section provides for the authentic of the statute and controlling version. It provides that a copy of statute bearing the assenting signature of the President is the controlling version of such a statute and where such statute is amended and consolidated under the authority of the Attorney General, a consolidated version authorized by the Attorney General shall be controlling version.

Section 24 provides for the Contract management. For the purpose of orderly management of government commitments and expectations in commercial contracts, the Attorney General required to build sufficient skills on negotiation, drafting and contract management among state attorneys, legal officers, and other relevant officers involved in the contract management; establish a special unit within the Chambers responsible for government contracting; and issue Government Contract Management Manual;

Part Four provides Codes of Conduct for state attorneys and legal officers. It has sections 25 to 27 .Section 25 confers powers to the Attorney General to make and supervise Code of Conduct for the State Attorneys and other Legal Officers.

Section 26 provides for the Disciplinary action to a person who breaches the Code of Conduct.

Section 27 provides for the duty of the Attorney General to develop standard of performance to be observed and achieved by every Department or Unit of the Chambers or Legal Department or Unit under any public service institution subject to this Act. Also he required to conduct performance appraisal of such Legal Department or Unit and submit the same to the Minister and other relevant authorities he considers necessary. .

Part Five deals with the Miscellaneous Provisions. It has sections 28 to 32. Section 28 provides the immunity against civil or criminal liability for any act or thing done or omission made in good faith by the Attorney General, Deputy Attorney General, State Attorney, Legal Officer or any person performing any function, power or authority of the Attorney General under this Act or any other law .

Section 29 provides for the Cooperation between the Chambers and the Office of the Director of Public Prosecutions. They can make rotation arrangement of their professional staff; develop common carrier and skills development programs; and

Conduct or engage in any other program or arrangement to achieve the purpose of this section.

Section 30 is about automatic right of the Attorney General and the Deputy to be a Notary Public.

Section 31 provides Power for the Minister in consultation with the Attorney General to make regulations for the better carrying out of the provisions of this Act.

Finally, Section 32 recognises the existence of the Deputy Attorney, State Attorneys and Law Clerks. Through this section they continue in office and perform their duties as if they have been appointed and employed as such under the provisions of the Act. In the same sense it recognise the legality of any thing done or before the commencement of this Act

ZANZIBAR
24 Disemba, 2012

(ABUBAKARY KHAMIS BAKARI)
Minister of Constitutional Legal Affairs

A BILL
for
AN ACT TO AMEND VARIOUS LAWS AND MAKE BETTER PROVISIONS THEREOF

ENACTED by the House of Representatives of Zanzibar

PART I
PRELIMINARY PROVISIONS

Construction. **1.** This Act may be cited as the Written Laws (Miscellaneous Amendment) Act of 2013 and shall come into operation immediately after being assented to by the President.

PART II
AMENDMENT OF THE ZANZIBAR INDUSTRIAL COURT ACT, No.2 OF 1994

Construction **2.** This part shall be read as one with the Zanzibar Industrial Court Act No.2 Of 1994 in this Part referred to as "Principal Act".

Repeal and replacement of section 14(1) **3.** Section 14 of Principal Act is repealed and replaced as follows:

14.(1) the Chairman of the Court who shall be appointed by the Chief Justice upon advice by the Minister and after Consultation with the Judiciary Service Commission from among Judges of the High Court,

PART III
AMENDMENT OF THE RENT RESTRICTION (AMENDMENT ACT) No.3 OF 1987

Construction **4.** This part shall be read as one with the Rent Restriction (Amendment Act) No.3 of 1987 in this Part referred to as "Principal Act".

5. Section 6(1) of Principal Act is amended by deleting the word "President," which appears immediately after the clause ".....shall be appointed by the" and substitute it for the clause "Chief Justice in consultation with the Judiciary Service Commission",

Amendment
of section
6(1).

PART IV

AMENDMENT OF THE HIGH COURT ACT No.2 OF 1985

6. This part shall be read as one with the High Court Act No.2 of 1985 in this Part referred to as "Principal Act".

Construction.

7. Section 3(1) of Principal Act is amended by adding new subsection (2) immediately after paragraph (c) of subsection (1) as follows:

Amendment
of section
3(1).

(2) The High Court may be expanded to various divisions.

PART V

AMENDMENT OF THE ZANZIBAR STATE TRADING CORPORATION ACT, No.11 OF 2011

8. This part shall be read as one with the Zanzibar State Trading Corporation Act, No. 11 of 2011 in this Part referred to as "Principal Act".

Construction.

9. Subsection (2) of section 13 of Principal Act is repealed and replaced as follows:

Repeal and
replacement
of section
13(2)

(2) The board shall consist of :

- (a) Chairperson ,who shall be appointed by the President;
- (b) Managing Director; and
- (c) One member to be appointed by the Minister from each of the following institutions in consultation with the respective institution:

- (i) Ministry responsible for Trade;
- (ii) Ministry responsible for Finance;
- (iii) Ministry responsible for Agriculture
- (iv) One person from Clove Farmers Association Unguja and one from Clove Farmers Association Pemba;
- (v) Police Force; and
- (vi) Zanzibar Chamber of Commerce, Industry and Agriculture.

OBJECTS AND REASONS

The object of this Bill is to make amendments of five written laws namely:

- i. Zanzibar Industrial Court Act No.2 Of 1994
- ii. Rent Restriction (Amendment Act) No.3 of 1987
- iii. High Court Act No.3 of 1987
- iv. Zanzibar State Trading Corporation Act, No.11 of 2011
- v. Zanzibar Port Cooperation Act No.1 of 1997.

This Bill is divided into six parts:

Part one is about preliminary provisions which provide for short title and commencement date for the proposed Acts.

Part two is about the amendment of the Zanzibar Industrial Court Act, No.2 of 1994 which contains 2 sections, section 2 and section 3. Section 2 is about construction of the part and section three is about repeal and replacement section 14(1) of the Act.

Part three is about the amendment of the Rent Restriction (Amendment Act) No.3 of 1987 which deal about the construction, and amendment of section 6(1).

Part four is about the amendment of the High Court Act No.3 of 1987 which contains 2 sections , section 5 is about construction and section 6 is about adding new subsection (2) immediately after paragraph (c) of subsection (1).

Part five is about amendment of the Zanzibar State Trading Corporation Act, No.11 of 2011 which contains 2 sections, section 7 is about construction and section 8 is about repeal and replacement of section 13(2).

Part six is about the amendment of the Zanzibar Port Cooperation Act No. 1 of 1997. Also this amendment intends to provide coordination between corporation and the Zanzibar Marine Transport and to ensure effective and efficient administration to the Zanzibar Port.

ZANZIBAR
24th December, 2012

(OTHMAN MASOUD OTHMAN)
Attorney General

A BILL
for

**AN ACT TO AMEND THE ZANZIBAR PORTS
CORPORATION ACT NO. 1 OF 1997**

ENACTED by the house of representatives of Zanzibar

PART I
PRELIMINARY PROVISION

1. This Act may be cited as the Zanzibar Ports Corporation (Amendment) Act, 2013 and shall come into operation immediately after being assented to by the President.

Short title
and
Commence-
ment

Constraction. **2.** This Act shall be read as one with the Zanzibar Ports Corporation Act, No. 1 of 1997 in this Act is referred to as the "Principal Act"

**PART II
AMENDMENTS PROVISION**

Amendment of section 11. **3.** The Principal Act is hereby amended by deleting paragraph (c) of section 11.

Amendment of section 13. **4.** The Principal Act is hereby amended by deleting paragraph (d) of section 13.

Amendment of section 23. **5.** Subsection (2) of section 23 of the Principal Act is hereby amended as follows:

"The Financial Year of the Corporation shall run from the 1st day of July to the 30th day of June in each year".

Amendment of section 30. **6.** Section 30 of Principal Act is hereby amended by renumbering section 30 to be section 30(i) as follow:

(a) 30(1) In consultation with Officer of Customs the Authorized employee of the Corporation shall refuse to give the master of any ship Outward Clearance or Port Clearance until:-

(b) Paragraph (b) of section 30 of the Principal Act is hereby amended as follow:

"He has received a certificate from an Authorized employee of Zanzibar Maritime Authority stating that, the ship has on board only required number of passengers, crew, the ship is properly loaded and the ship should be in sea worthiness condition".

(c) The Principal Act is hereby amended by adding a new subsection (2) immediately after paragraph (b) as follow:

(2) The master of any ship or native vessel leaving any port of Zanzibar mentioned in second schedule of this Act shall, prior to leaving, clear all ports requirement from any port of Zanzibar and obtain Port Clearance.

7. Section 50 (a) (i) of the Principal Act is hereby amended as follow: Amendment of section 50.

"Is found on any premises or any place occupied by the Corporation without identity card, permission from authorized employee or without gate pass as the case may be".

8. Section 60(1) of the Principal Act is hereby amended by deleting the words "This Act" appearing after the word "to" and Substituting with the following " Public Service Act No. 2 of 2011 and its Regulations" Amendment of section 60.

9. Section 67 of the Principal Act is hereby amended by adding new paragraph (l) immediately after paragraph (k) as follow: Amendment of section 67.

“Subject to the provisions of any law relating to finance, the Minister may make financial regulation for the purposes of the Corporation”.

10. The first schedule of the Principal Act is hereby amended by adding new section 13 immediately after section 12 as follows: Amendment of first schedule.

11. The Board shall be responsible for appointing the secretary to the Board among qualified employee of the Corporation who hold at least LLB with working experience at least three years.

OBJECTS AND REASONS

The object of this Bill is to amend the Zanzibar Port Corporation Act No. 1 of 1997. Also this amendment intends to provide coordination between corporation and the Zanzibar Marine Transport and to ensure effective and efficient administration to the Zanzibar Port.

This Bill is divided into two parts:-

Part I of the Bill deals with preliminary matters which are short title and commencement. Also this part provide for the constraction of the proposed Act to be read together with Zanzibar Port Cooperation.

Part II of the Bill is proposing the amendment of the provisions which contain 10 section. Section 3 deal with the amendment of section 11(c).

Section 4 is proposing the amendment of section 13 by deleting paragraph (d). Section 5 is proposing the amendment of section 23 by explaining the financial year of the Cooperation. Section 6 is proposing to amend section 30 by renumbering section 30 to be section 30(i).

Section 7 is proposing the amendment of section 50. Section 8 is proposing the amendment of section 60. Section 9 is proposing the amendment of section 67 by adding new paragraph (l) immediately after paragraph (k). Section 10 is proposing the amendment of the first schedule by adding new section13 immediately after section 12.

ZANZIBAR
24th December,2012

(RASHID SEIF SULEIMAN)
*Minister of Infrastructure and
Communication*

A BILL
for
**AN ACT TO ESTABLISH AND MANAGE THE ZANZIBAR
UTILITIES REGULATORY AUTHORITY, FOR THE
REGULATION OF UTILITY SERVICES
IN THE INTEREST OF CUSTOMERS AND PROVIDERS
OF UTILITY SERVICES IN ZANZIBAR**

ENACTED by the House of Representatives of Zanzibar

**PART ONE
PRELIMINARY PROVISIONS**

1. This Act may be cited as the Zanzibar Utilities Regulatory Authority Act 2013, and shall come into operation upon such date as the Minister may, by notice published in the Gazette, appoint.

Short title
and
commence-
ment.

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

Interpreta-
tions

"annual report" means the report submitted to the Minister under the provisions of this Act;

"Authority" means the Zanzibar Utilities Regulatory Authority and also known by its acronym as 'ZURA' established under the section 3 of this Act;

"Board" means the Board of Directors of the Authority established under section 9 of this Act;

"Chairperson" means the Chairperson of the Board appointed under section 10 of this Act;

"confidential material" means and includes only the material or information in which the Authority certifies that its disclosure could adversely affect the competition or business or reputation of any person;

"consumer or customer" means a person to whom a utility service is provided or is required to be provided under this Act or any Utility legislation;

"Court" means High Court of Zanzibar;

" Director General" means the Director General of the Authority appointed under section 4 of this Act;

"Deputy Director General " means the deputy administrator of the Authority appointed under section 4 of this Act;

"Gazette" means an official gazette of the Revolutionary Government of Zanzibar;

"License" means a technical and legal document authentically issued as per provisions of this Act and any other utility legislation and the term licensee shall be construed accordingly; by which permission is granted to a legal entity for commercial use of authorized energy and water facilities.

"Minister" means the Minister responsible for utility regulation as assigned by the President;

"person" means a natural person or legal entity;

"President" means the President of Zanzibar and the Chairman of the Revolutionary Council;

"public register" means the register of the Authority kept by the Authority as prescribed under section 25 of this Act;

"public utility" means a natural or legal person providing water, electricity, petroleum and any other related services;

"regulated goods" means any goods produced, supplied or offered for supply or for use in a regulated sector and includes any goods the Authority declares under this Act;

"regulated services" means any services supplied or offered for supply in a regulated sector and includes services which the Authority declares to be such services under this Act;

"regulated sector" means sector directly responsible for electricity, petroleum, natural gas pipeline transmission and natural gas distribution and distribution of water and sewage;

"secretary" means secretary to the Board;

"standards" include standards relating to the content applied in the electricity supply, water and sanitation, petroleum and natural gas distribution;

"tariff" means any rate, fee or charge for utility services;

"utility area" means service territory, plant and equipment owned or reserved for utility services;

"utility legislation" means any legislation governing each utility and any statutes amending or replacing those statutes;

"utility" means electricity, water supply and sanitation, petroleum and any other as defined by the Minister from time to time;

"year" means a financial year;

"ZBS" means Zanzibar Bureau of Standards

PART TWO

COMPOSITION AND MANAGEMENT OF THE AUTHORITY

3.(1) There is hereby established an authority to be known as the Zanzibar Utilities Regulatory Authority or in its acronym "ZURA".

Establishment
of the
Authority.

(2) The Authority shall be an autonomous body corporate with perpetual succession with common seal and shall be capable in its name to:

- (a) acquire, hold or dispose of its own property whether movable or immovable;
- (b) enter into any contract with an individual person or an organization;
- (c) sue and being sued;
- (d) borrowing and lending money.
- (e) doing or performing all other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done by a body corporate

Composition

4. The Authority shall have the following composition:

(1) Director General as the Chief Executive Officer of the Authority who shall be appointed by the President.

(2) The Director General shall be responsible for the day today administration of the Authority and for implementation and execution of its decisions.

(3) The Director General shall possess the following qualifications:

- (a) Must be a Zanzibari;
- (b) Must be a Master degree's holder or its equivalent from a recognised Institution in petroleum or water or management or business or engineering or electricity or law or any other related field with experience in such field at least five years;

(4) The Director General shall be appointed to serve on such terms and conditions as shall be set out in the letter of his appointment.

(5) Deputy Director General is the Deputy Chief Executive Officer of the Authority who may be appointed by the President.

(6) The Departmental directors shall be appointed by the Board subject to Public Service Act No.2/2011 for the duration specified in the letter of appointment;

(7) Other staff shall be employed by the Board in line with the organization structure of the Authority subject to Public Service Act No.2/2011.

5. There is hereby established a Board of Directors of the Authority which shall be subject to this Act responsible for governing affairs of the Authority and shall be answerable to the Minister. Establishment of the Board.

6.(1) The Board of Directors shall consist of seven members :- Composition and tenure of the Board.

(a) Chairperson who shall be appointed by the President for the duration of four years and may be reappointed for another term;

(b) Director General as an ex officio;

(c) Five members who shall be appointed by the Minister whereby at least two members are female, for the duration of three years and may be reappointed for another term;

(2) Subject to subsection (1) of this section, The members except ex officio appointed by the Minister shall hold at least degree or its equivalent in business or engineering or water or law or petroleum or finance and any other related fields whereby two members from private sector.

(3) The Board shall elect one of its members to be a Vice-Chairperson

(4) The Board shall be responsible to the Minister.

7.(1) A Chairperson shall possess the following qualifications:- Qualification of Chairperson.

- (a) must be a Zanzibari;
- (b) Must be at least a Degree holder or its equivalent from a recognized Institution with experience of not less than five years in the field of management or law or economic or engineering or business administration or any other related field;

Scope of Authority to petroleum sector.

8. ZURA has the following mandate:-

- To issue, review and cancel all Regulatory petroleum license
- To regulate tariffs in consultation with the Minister
- promoting effective competition and economic efficiency;
- Control quality, standard in consultation with ZBS
- Lease agreement

Scope of the Authority to water sector

9. Control water quality and standards

- To regulate water tariff, fees , charges with the consultation with the Minister
- To control efficient of water supply
- To issue regulatory water development, supply license.

Scope of the Authority to electricity sector.

10. - To issue, review and cancel all Regulatory generation, transmission, distribution, supply license

- To regulate tariffs in consultation with the Minister
- To regulate feed in tariff on energy
- Promoting effective competition on generation.
- Control quality, and standard
- Installation and fittings
- Power purchase agreements

11.(1) The Authority shall have mandate to:

- (a) establish standards for regulated goods and services; terms and conditions of supply of goods and services.
- (b) ensure that all utility suppliers provide adequate service and have means to finance their activities;
- (c) The Authority may prepare codes of conduct, reporting requirements, scheme of service, staff Regulations and any other actions which necessary to regulate utilities effectively;
- (d) facilitate and encourage private sector participation, fair competition, and participation in investments in public utilities;
- (e) ensure compliance by public utilities with the laws governing their activities;
- (f) prepare and issue rules and directives to public utility sector;
- (g) establish and implement adequate systems for monitoring the compliance by licensees with standards and applicable regulations, and making such information publicly available;
- (h) establish an appropriate procedure for receiving, enquiring and resolving complaints by customers in relation to any utility services within time provided under the regulations of this Act;
- (i) facilitate the resolution of complaints and disputes.;
- (j) disseminate information about matters of its functions;

(k) have due regard to the preservation and protection of the environment, the conservation of natural resources and health and safety of users

(l) issue orders to regulated public utility .

licenses

12.(1) The Authority shall issue licenses on regulated public utilities as follow:-

(1) Electricity

(a) generation,

(b) supply

(c) sale

(d) transmission

(2) Water

(a) supply

(b) development of water resources

(3) Petroleum

(a) distribution

(b) importation

(c) whole sale and retailer and any other related.

(2) new market entrants, public or private delivering utility services or goods;

(3) The Authority shall promote the continuity and reliable supply of utility services; it may issue rules for the procurement of new resources by licensed utilities and new utilities;

(4) The Authority shall ensure a fair balance between the interests of the consumers and the requirements of service providers;

(5) The Authority may do all things which appear requisite and advantageous in furtherance of its objectives or as directed by the Sector legislation.

(6) The Authority shall not issue or cancel a major or exclusive license having a term of five or more years without prior consultation with the Minister and the relevant sector Minister

13. Subject to power conferred by the sector legislation, the Authority shall have the following powers to:

Powers of
the
Authority.

- (a) receive, issue, modify, revoke licenses as prescribed under this Act;
- (b) prepare and issue rules, order and directives to public utility sector;
- (c) prescribe conditions and terms of licenses issued under this Act;
- (d) publish in the gazette all the tariffs, rates, and charges;
- (e) obtain information from any person where the Authority has reason to believe that person is capable to supplying information , producing a document or giving evidence that may assist in the performance of any of its functions;
- (f) regulate respective public utilities providing energy and water services under this Act and other utility legislation;
- (g) in consultations with the Minister set rates, tariffs and other charges imposed by a licensee in accordance with any rules specified in the Regulation and other relevant Utility legislation;
- (h) conduct an inquiry where it considers its necessary or desirable for the purpose of carrying out its functions.

- (i) make and enforce directions to ensure compliance with licenses issued under this Act;
- (j) set performance standards for energy and water utilities, including customer service standards and service quality standards;

Rates and charges.

14. (1) Subject to the provisions of utility legislation and licenses granted under this Act, the Authority shall carry out regular reviews of rates and charges of any public utility and such review may be initiated by a public utility or ZURA or other party as may be prescribed in the Regulations.

(2) In making any determination, approving revenue requirements to be included in rates and charges or establishing the method for regulating such rates and charges, the Authority may take into account:

- (a) the full costs of producing or purchasing, and supplying the goods or services;
- (b) the return of assets in the regulated sector;
- (c) any relevant benchmarks including international benchmarks for prices, costs and return on assets and for performance, reliability and quality of service in comparable industries;
- (d) the financial implications of the determination;
- (e) the desirability of establishing maximum rates and charges, and in carrying out regular reviews of rates and charges;
- (f) multi-year tariffs;
- (g) performance based tariffs
- (h) any other factors specified in the relevant utility legislation;

- (i) performance standards;
- (j) any tariffs contained in power purchase agreements or other bulk supply agreements relating to power, fuel or water, shall not be effective until and unless they are approved by ZURA, excepting power purchase agreements entered into prior to the effective date of this Act. ZURA will honor financial commitments made by Zanzibar utilities and pass costs set by the agreements into retail tariffs.
- (k) any other factors the Authority considers relevant.

(3) In making determination concerning rate design, the Authority may consider the following factors:

- (a) the public and investor interest;
- (b) the desire to promote competitive rates and attract market;
- (c) interruptible prices , load balancing prices and other mechanisms intended to improve energy efficiency;
- (d) the encouragement of the use of demand side management principles as well as pricing that takes into account environmental and customer protection issues;
- (e) the use of seasonal and time of use prices and tariffs where appropriate pursuant to Regulations prescribed by this Act;
- (f) cross subsidies should be minimized, and where possible, eliminated; Any direct subsidization of customers shall be the responsibility of the Government.
- (g) other rate mechanisms designed to serve the public interest.

(4) The Authority shall develop Regulations for automatic adjustments and/or indexation formulas which may be applied to utility tariffs on a monthly basis, upon the request of a regulated utility or on the Order of ZURA.

(5) The Authority shall publish within thirty working days after the Board's approval in the Gazette all the rates, tariffs and charges relevant to this Act.

Functions of
the Board.

15.(1) The Board is responsible to:-

- (a) monitor the management of the Authority
- (b) promote the interests of users and potential users who require goods and services provided by certain public utilities in respect of the price and quality, and when appropriate, the variety of those goods and services;
- (c) monitor the adherence to all legislation affecting the activities and operating of the Authority;
- (d) determine the staffing requirements of the Authority and assign responsibilities of employees and setting their terms and conditions of employment, appointment and dismissal;
- (e) carry out the general and specific regulatory duties laid down by the regulated sector and any administrative work associated with these powers;
- (f) monitor the appropriation and disposal of assets necessary for the fulfillment of its responsibilities.
- (g) set strategies, action plans and appropriate work targets for each department;

(2) The Board shall at all time act in an independent, open, transparent and objective manner, and shall not show any form of discrimination when carrying out its activities.

16. The Board shall have the powers to:

- (a) approve the budget of the Authority and monitor its implementation;
- (b) appoint directors and other senior staffs of the Authority as may consider necessary subject to Public Service Act No. 2/2011;
- (c) convene an interview panel for the purpose of employing personnel within the Authority subject to Public Service Act No. 2/2011;
- (d) approve capital investment;
- (e) issue Orders of the Authority duly prepared by the staff, when appropriate procedures have been followed, including provision for public hearings. Signatures of a majority of the members of the Board present at a meeting shall be considered issuance of an Order.
- (f) Consider and approve financial and staff Regulations

17. An individual member of the Board ceases to be a member Termination.
when:-

- (a) a resignation letter is written by the member and approved by the appointing authority;
- (b) it becomes clear that physical or mental incapacity prevents him from carrying out his duties as ascertained by an authorized doctor;
- (c) he takes up another office which adversely affects the interest of the Board or Authority;
- (d) proven guilty of any offence punishable with more than six months imprisonment;

- (e) he is declared bankrupt by a court of law;
- (f) his appointment is revoked by the appointing authority
- (g) he is absent from three consecutive meetings of the Board without reasonable explanation.

Secretary. **18.** The Board shall appoint a qualified lawyer of the Authority to be a secretary of the Board.

Ordinary Meeting. **19.(1)** An ordinary meeting of the Board shall be called once in three months by an order of the Chairperson after consultation with the Secretary.

Extra Ordinary Meeting. **20.** The Chairperson in consultation with the Director General may call an extra ordinary meeting at any time if in his opinion, there is an urgent matter that needs to be discussed and decided by the Board. The Secretary shall issue a short notice before the day of the meeting posted on the ZURA website and notification given to interested parties.

Quorum. **21.** The quorum at the meeting of the Board shall be the majority of the members in office.

Minutes. **22.** Minutes of each Board meeting shall be kept in appropriate form and shall be confirmed by the Board in the next meeting and shall be sent to the Minister.

Remuneration. **23.** The members of the Board shall be paid such fee, remuneration and allowances as determined by the Board and approved by the Minister in consultation with the Minister responsible for Finance.

PART THREE FINANCIAL PROVISIONS

Funds of the Authority. **24.(1)** The funds of the Authority shall consist of:

- (a) a subvention from the Government;

- (b) all such sums of money, fees, charges, grants, donations, loans and other payments to the Authority from licensees, as provided for under any Utility legislation;
- (c) all assets of the Authority
- (d) such sums as may be provided by the Government for the purpose of the Authority in a specified time as agreed by the Government;
- (e) all such sums as may be paid as fees under this Act;
- (f) any grants, loans, donations or other contributions from development partners.

(2) The Board shall ensure that the Authority has different activities that render it self-financing.

25.(1) Before the end of each financial year, the Authority shall prepare and submit not less than six months before the end of the financial year to the Board a budget attached with comparison for the following financial year showing estimates of its projected revenue and expenditures for the following year. Budget.

(2) Subject to the provision of subsection (1), the Board shall submit for approval a copy to the Minister of its budget for the following year.

(3) Where the Authority sees necessary and with solid recorded arguments, may present a supplementary budget to the Minister through the Board for approval.

26.(1) The Authority shall keep accounts and records of all of its transactions and shall ensure that all money received and paid by the Authority is properly accounted for. Account and Audits.

(2) The annual statement of accounts of the Authority shall be audited in accordance with the provisions of the establishment of the Auditor-General Act No.11/2003.

27.(1) The Board shall prepare or cause to be prepared and submit to the Minister within six months after the close of each financial year an annual report which shall provide details information regarding the exercise of the functions and power of the Authority during the year which it relates and shall include:

- i. copy of audited account of the Authority together with the Auditors report and accounts;
- ii. performance report of the Authority during the year;
- iii. a statement of all directives given by the Minister to the Authority under this Act during the year;
- iv. such other information and other material as the Authority may be required by this Act or the regulations to include in the annual report.

(2) The annual report shall be published in the public media including ZURA's official website.

(3) The Minister, shall lay before the House of Representatives the annual report with the audited accounts and report of the Authority.

PART FOUR ACCOUNTABILITY OF THE AUTHORITY

28.(1) The Authority shall establish and maintain in such written form as it may determine a public register and they shall maintain a website on which the Register shall appear

(2) The register shall be made freely available to the offices and sub-offices to the public for inspection during normal office working hours.

(3) The Authority shall cause to be entered in the Register in the timely manner every:

- (a) under taking authorization either granted by the Authority or administered under the relevant utility legislation as well as its particulars, modification, revocation or exemption; and
- (b) Regulatory decision by the Authority together with filings, reasoning, appealing and reconsiderations where applicable.

(4) The Authority shall ensure that the public register be published in the Gazette and accessible to the public by ZURA's official website.

29.(1) The Authority shall ensure that public utilities provide good or services in transparency to meet all reasonable demands to any person. Transpare-
ncy.

(2) The Authority shall at all time act in an independent, open, transparent and objective manner and shall not show any form of discrimination when carrying out its activities.

(3) All persons under the Authority or the Board shall always act with reasonable conduct free of corruption, political pressure, misrepresentation and undue influence.

30.(1) The Authority shall adopt and apply a code of conduct expressing standard of behavior to be observed by the members of the Board and employees of the Authority in the performance of their duties within twenty four months after commencement of this Act. Code of
conduct.

(2) The code of conduct shall be published in the Gazette and local public newspapers and on ZURA Websites where possible for the purpose of public understanding.

(3) The code of conduct adopted or expressed under this section shall be binding on the Authority and the Board and may be amended from time to time. Board Members and staff must sign a document indicating their intent to comply with the Code of Conduct upon commencement of their duties.

Confidentiality.

31.(1) Any person or employee of the Authority who gives or discloses any material or information to the Authority, whether under compulsion of law or otherwise, the Authority shall direct to that person or employee that he has a right to claim confidentiality in respect of whole or any part of the material.

(2) The Authority shall set out procedures and manners and cause to be published them in the Gazette or internet where possible on how it will disclose its confidential materials or information.

Conflict of interest.

32.(1) A member of the Board or staff of the Authority shall be considered to have a conflict of interest for the purposes of this Act, if he knowingly acquires any pecuniary advantage or other interest that could conflict with the proper performance, or assists in the acquisition of any pecuniary advantage by another person.

(2) Where at any time a member of the Board or staff of the Authority has a conflict of interest in relation to:

- (a) any matter before the Authority for consideration or determination;
- (b) any matter the Authority could reasonably expect might come before it for consideration or determination,

the member or staff must immediately disclose the conflict of interest to other members or staff of the Authority and refrain from taking part, or any further part, in the consideration or determination of the matter.

(3) Where the Chairperson becomes aware that a member or staff has a conflict of interest in relation to any matter before the Authority, shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) Where the Authority determines that the conflict is likely to interfere significantly with the staff or member's proper and effective performance of the functions and duties, the appointing authority must order such staff or member to resign.

(5) The Authority shall report to the Minister any determination of the conflict which is likely to interfere significantly with performance.

(6) The Annual report shall disclose details of all conflicts of interest and the determination arising there from.

(7) A member or staff of the Authority who is subject to this Act shall be considered to have breached the code if:

(a) he fails without reasonable cause to make declaration of his interests as required; or

(b) he knowingly makes a declaration false or misleading in a material particular thereby affecting the decision,

that person shall be guilty of an offence of which will be resigning from office.

33.(1) There is hereby established a Council to be known as the Consumer Representatives Council.

Consumer
Representa-
tive
Council.

(2) The Council shall consist of not less than five (5) members and not more than seven (7) members appointed by the Minister from amongst a list of an organisation or organisations legally recognised as being representative of private sector interest,

(3) Before making the appointment of members pursuant to subsection (2) of this section the Minister shall by notice published in the Gazette, and in any newspaper or newspapers circulating widely in Zanzibar invite nominations for appointments and having received them publish the names and call for comments, objections or representations from the public concerned within twenty one days from the date of publication.

(4) In nominating and appointing persons for the Council, the members of the private sector and the Minister shall have regard to the desirability of the Council as a group having knowledge and understanding of the interests of consumers and that of the regulated services.

(5) The Council shall make its own rules for regulating its procedure and other matters relating to its functions.

Functions
and Powers
of the
Council.

34.(1) In carrying out its functions conferred under this Act, the Council shall:-

- (a) represent the interests of consumers by providing views and information to the Authority, Minister and regulated sector according to this Act;
- (b) receive and disseminate information and views on matters of interest to consumers of regulated goods or services;
- (c) consult with industries, Government and other consumer groups on matters of interests to consumers of regulated goods or services;

(2) The Council shall have power to regulate its own procedure in relation to the performance of its business.

(3) The Authority may take the advice of the Council under consideration; the advice of the Council is in no way binding upon the decision made by the Authority.

Funds of
the council.

35. The Authority shall facilitate the council with the fund for the execution of the operational functions of the Council.

Public
hearing.

36.(1) The Authority shall conduct public hearing for the purpose of carrying out of its functions at any public place to enable stakeholders to participate effectively and give out their comments;

(2) Date, time and place to conduct the public hearing shall be specified by the Authority and published in the Gazette or major public newspapers;

(3) The public hearing shall be conducted in matters relating to:

- (a) grant, renew or cancel license;
- (b) regulate any rate or charge;
- (c) Any other matters that the Authority may choose.

(4) The Authority shall invite at its public hearing industry, Government and other consumer groups on matters of interest to consumers of regulated goods and service.

(5) The Authority shall include a report concerning the public hearing as specified in the Regulation made under this Act as part of the Order issued by the Authority in the matter.

37.(1) The Authority shall, in carrying out its functions and exercising Competition. its powers under this Act and utility legislation in relation to particular markets for regulated services, take into account whether:

- (a) the conditions for effective competition exist in the market;
- (b) any such detriments to the public are likely to outweigh any benefit to the public resulting from the exercise of the powers.

(2) The Authority shall deal with all competition issues which may arise in the cause of the discharge of its functions and may investigate and report on those issues, and making appropriate recommendations to the Zanzibar Bureau of Standards or any other relevant authority;

PART FIVE COMPLAINTS AND DISPUTE SETTLEMENT

38.(1). The Authority shall have power to hear and solve complaints Complaints. raised by or between consumers, utility or supplier of the regulated goods as may be referred to it by the aggrieved party, provided that the dispute has been the subject of negotiations between the licensed utility and the complainant prior to the matter being raised with the Authority. The Authority may dismiss a complaint if it deems the complaint to be untrue or unfeasible.

(2) Where a complaint is referred to the Authority, the Authority may summon the parties and may request information or documentation which it considers necessary for conducting an investigation.

(3) The Authority shall investigate into the complaint and attempt to resolve them amicably within sixty days from the date when complain has been referred to it.

(4) If the Authority fails to resolve the dispute within the period provided under this section, it shall refer the matter to the Board together with its findings and recommendation.

(5) The Board shall consider the opinion of the Authority and may summon parties or any interested party to the dispute and shall make its decision within thirty days.

(6) The complainant or parties to the dispute may refer the matter to the court where they are not satisfied with the decision of the Board.

PART SIX OFFENCES AND PENALTIES

Disclosure
of the
information.

39.(1) Any person, staff of the Authority or member of the Board who discloses confidential material or information or cause leakage of Authority or Board's materials or information otherwise than as authorized by the Authority or Board commits an offence and upon conviction shall be liable to a fine of not less than Three Million Shillings and not exceeding five million Shillings or Two years imprisonment or both.

(2) Any recipient or beneficiary of the information received under subsection (1) of this section shall be guilty of a misdemeanour offence and shall be liable when convicted to a fine of not less than one Million Shillings and not two exceeding or one year imprisonment or both.

Compound
offences.

40.(1) The Authority may compound an offence committed by a person under this Act or its Regulations by requiring him to pay the fine prescribed for such offence , provided that the person:

- (a) admits that he has committed an offence in writing and shall take due care that not repeat such offence, and
- (b) pays other sums payable under this Act or its Regulations.

(2) If the fine imposed under subsection (1) of this section is not paid on demand, the Authority may institute court proceedings or may take steps for the recovery of the fine in any manner prescribed in this Act.

41.(1) Any person who destroys or misuses utility areas by erecting structure or building or dumping or digs holes in any utility area without permission or uses utility areas in such manner contrary to the direction and procedures established by this Act or any other relevant or utility legislation, commits an offence and shall upon conviction be liable to a fine or imprisonment as stipulated under the relevant or utility legislation or if no punishment prescribed from utility legislation he shall be liable for misdemeanour or fine of not less than one Million Shillings and not exceeding Five Million.

General
offences.

(2) Any person found guilty of an offence under the provision of subsection (1) of this section, shall be required to remedy any damage caused by his misuse of the utility area.

(3) In addition to the penalty provided for under the provisions of subsection (1) and (2) of this section, the Authority may issue any order which it deems fit.

(4) Any staff of the Authority or member of Board who receives any improper remuneration, in any form, which is provided in order to facilitate a decision under this Act or acts considered inappropriate in any way, shall be guilty of an offence and shall be liable to be punished upon conviction to a fine of not less than Two Million Shillings and not exceeding Three Million Shillings or imprisonment of not less than six months and not exceeding two years or both fine and imprisonment.

(5) Any person who for the purpose of this Act, without lawful excuse:

- (a) furnishes any information or produces any document which is false or misleading in material particulars; or
- (b) obstructs any officer in the performance of his functions under this Act; or
- (c) otherwise contravenes the provisions of this Act;

Commits an offence and upon conviction shall be liable to a fine of not less than Twenty Million Shillings or imprisonment for a term of not less than ten years or both.

PART SEVEN APPEAL

Recalculation.

42.(1) Any person who is given an order by the Authority may ask the Authority for a recalculation of the numbers and facts in that order, within ten days of the issuance of the order.

(2) The Authority shall issue a written response within ten days of the filing of a recalculation request explaining the reasons for the conclusions reached in the decision.

Reconsideration.

43.(1) Any person who is given an order by the Authority may ask for reconsideration of the order to them, within fifteen days of the issuance of the order, stating the reasons for seeking reconsideration.

(2) The Authority shall issue a response to the request for reconsideration within 30 days of the filing of the request explaining the reasons for the conclusions reached in the decision

Appeal.

44.(1) Subject to section 40 and 41 of this Act Any party who is not satisfied with recalculation or reconsideration decision may appeal to the High Court. No party may petition to the Court without having first

exhausted the remedies contained in the recalculation and reconsideration requests. The Authority shall make all documents of the case available to the Court.

(2) Without prejudice subsection (1) of this section, Any party who is aggrieved by the decision of the Authority may appeal to the High Court.

PART EIGHT MISCELLANEOUS

45.(1) The Minister may issue general recommendation to the Authority in writing on matters concerning utility services to the extent that such recommendations are not inconsistent with this Act or relevant utility legislations. Powers of the Minister.

(2) Notwithstanding with subsection (1) of this section (1) , the Minister, from time to time as it deems necessary, may give to the Authority directions of a specific or general issues, arising in relation to any regulated sector, for the purposes of securing the effective performance by the Authority of its policy, functions and compliance with the code of conduct.

(3) The Minister shall, with respect to the formulation and implementation of the policy of the respective sector ensure adherence to the environmental and other related national sector policies.

46. The Regulated public utilities requiring licensing are:

Regulated Public Utilities.

- (a) Electricity
- (b) Petroleum Products
- (c) Water and Sewerage
- (d) Any other public utilities as the Minister after consultation with other responsible Ministers, may prescribe by an order published in the Gazette.

Protection
from
liability.

47. A Chairperson, Director General, Deputy Director General, members or any officer of the Authority has no liability, civil or criminal in respect of any act or omission done in good faith and in execution of his duties under this Act.

Regulations.

48.(1) The Minister may make Regulations not inconsistent with this Act as he considers necessary or desirable to give effect to the provisions of this Act.

Rules.

49.(1) The Board with prior approval of the Minister may make Rules of proceedings with respect to code of conduct; standard of regulated goods and services, license, tariff, rates and charges, fees payable to the Board or any such other matters including transparent mechanisms for new investments and private participation, Model Power Purchase Agreements and feed in tariffs for energy projects..

Planning
and
investment.

50.(1) The Public Utilities shall prepare annual business plans that include planning and investment, and submit to the Board for annual review and approval. If the Board finds that a business plan is not consistent with the best interests of the customers, the plan may be rejected, and reasons shall be stated and a new plan must be prepared and submitted. No regulated utility may seek a tariff change until and unless they have an approved business plan.

(2) In planning for new investments, public utilities shall consider private investment and public-private partnerships and include such considerations in their plans.

(3) Public Utilities shall seek approval from the Board for any investments for which they will subsequently seek recovery through tariffs. This requirement shall include power purchase agreements and amendments thereto.

Declaration.

51.(1) The Authority apart from other functions upon which the Authority is empowered to perform, it can also make declarations on-

- (a) particular on regulated goods or services, or particular on classes of goods or services for the purposes of this Act;
- (b) particular on activities in connection with a regulated sector; or
- (c) varying, amending, reviewing or revoking previous declarations made under this section.

(2) Declarations made by the Authority shall not be inconsistent with this Act, sector legislation or Regulation made under this Act.

(3) Before making any declaration under this section, the Authority shall furnish to the Minister with a draft of the proposed declaration, and shall give the Minister the opportunity to consult with any related sector Minister or Authority about the draft declaration within twenty days after the draft is submitted to the Minister;

(4) A copy of any declaration made under this section shall be placed on the Public Register.

52.(1) The following provisions under the Zanzibar Electricity Corporation Act No.3/2006 are hereby repealed:

Repeal of
sector
legislation.

- (i) section 10(d);
- (ii) section 27;
- (iii) Section 44.

(2) The following provisions under the Water Act No.4/2006 are hereby repealed:

- (i) section 5 (h), (j);
- (ii) section 14(d);
- (iii) Section 55 concerning variations of fees and standards.

Savings.

53. This Act shall not affect the terms or validity of any concession dealing with service providers and customers prior to the coming into operation of this Act,

Provided that new licenses upon the renewal the provisions of this Act will apply.

Act to prevail.

54. The Authority shall have powers, duties, functions and responsibilities vested to it by this Act and in the event of any conflict or duplicity between sector legislation, Regulations or rules; the provisions of this Act will prevail unless otherwise the Minister provide.

A BILL
for

**AN ACT TO PROVIDE FOR THE ESTABLISHMENT
OF ZANZIBAR COMMERCIAL COURT AND
FOR OTHER RELATED MATTERS**

TO BE ENACTED by the House of Representatives of Zanzibar.

**PART ONE
PRELIMINARY PROVISIONS**

Short title
and
Commence-
ment.

1. This Act may be cited as the Zanzibar Commercial Court (High Court Division) Act, 2013 and shall come into force on such date as the Minister may, by notice in the Gazette, appoint.

Application.

2.(1) Unless otherwise provided this Act shall apply to all commercial cases before the court.

(2) In case of any lacunae in this Act, provisions of Civil Procedure Decree, Chapter 8 of the Laws of Zanzibar shall apply.

Interpreta-
tion.

3. In this Act, unless the context otherwise requires:-

"Assessor" means a person appointed by the Commercial Court Users' Committee to sit with a judge in adjudication of commercial cases;

"Commercial case" means a civil case involving a matter considered by the court to be of a commercial significance, including any claim or application arising out of transaction of trade or commerce but not limited to:

- (a) The formation of business or commercial organization;
- (b) The governance of business or commercial organization;

- (c) The contractual relationship of a business or commercial organization with other bodies or person outside it;
- (d) The liability of a commercial or business organization or official arising out of its commercial or business activities;
- (e) Intellectual properties disputes;
- (f) The liability of a commercial or business person arising out of that person's commercial or business activities;
- (g) Banking and financial services including mortgages transactions;
- (h) The restructuring or payment of commercial debts by or to business or commercial organization or person;
- (i) The enforcement of commercial arbitration award;
- (j) The enforcement of awards of a regional court or tribunal of competent jurisdiction made in accordance with a treaty or Mutual Assistance , to which United Republic of Tanzania is a signatory and which forms part of the law of United Republic of Tanzania;
- (k) Admiralty proceeding;
- (l) Arbitration; and
- (m) Any other dispute to which Chief Justice shall deem fit to be tried by Commercial Court.

"Commercial disputes" means disputes involving a matter considered by the court to be of a commercial significance as provided under this Act.

"Court" means a Commercial Court established as a division of the High Court referred to under section 4 of this Act;

"Decree" means Civil Procedure Decree, Chapter 8 of the Laws of Zanzibar.

"Friend of the court" means a person who has been called upon by the court to assist the court on the matter before the court.

"Judge in charge" means the judge in charge of the Court and includes Regional Magistrate with extended jurisdiction assigned to hear commercial cases.

"Judge" means a judge of the High Court of Zanzibar assigned to preside over a commercial court

"Judicial review" includes judicial proceedings carried out for the following remedies:-

- (a) Certiorari;
- (b) Prohibition; and
- (c) Mandamus.

"Presiding judge" means a judge or Regional Magistrate with extended jurisdiction presiding over a Commercial Court.

"Public duty" includes a duty to make a decision or determination, and a duty to hear and determine a case.

"Quasi judicial body" means any person, government ministry, department or any other body that is empowered to make decision under the law but does not include a court of law;

"Registrar" means the Deputy Registrar of the Commercial Court and shall include any person acting in such a capacity.

PART TWO ADMINISTRATIVE PROVISIONS

Establishment
of Zanzibar
Commercial
Court.

4. It is established a Commercial Court which shall be a Division of the High Court of Zanzibar to deal with Commercial disputes of the value provided under this Act.

5.(1) Notwithstanding any provision of this Act, the Commercial Court shall not have exclusive jurisdiction in settling commercial disputes.

Jurisdiction
of Court.

(2) The Commercial Court shall have jurisdiction:

- (a) to hear and determine any commercial cases within the meaning of this Act;
- (b) to register consent judgments, commercial resolutions and awards following mediation or arbitration of a commercial dispute made under the provisions of this Act;
- (c) to hear appeals, revision and be a court of references on disputes of commercial nature;
- (d) to exercise such other functions and powers as are conferred upon it by this Act or as may be conferred upon it by any written law.

(3) Jurisdiction of Commercial Court may be invoked for claims of commercial nature exceeding shillings thirty million where the subject matter is movable property and intangible property exceeding shillings twenty million and capable of being estimated at a monetary value, and at least shillings fifty million in case of immovable property.

6. The Court shall consist of -

- (a) a judge appointed by the Chief Justice from amongst the judges of the High Court or Regional Magistrate with extended jurisdiction to hear commercial disputes;
- (b) two assessors amongst persons appointed by the Commercial Court Users Committee established under section 7 of this Act.

Composition
of
the Court.

7.(1) There shall be a Commercial Court Users Committee consisting of the Judges of the Commercial Court, one advocate nominated by the

Commercial
Court Users
Committee.

Zanzibar Law Society, one State attorney nominated by the Attorney General, one person nominated by the Zanzibar National Chamber of Commerce, Industry and Agriculture and one representative from the Ministry responsible for trade.

(2) The Judge in charge of the Commercial Court shall be the Chairperson and the Registrar shall be the Secretary to the Committee.

(3) It shall be the responsibility of the Commercial Court Users Committee to advise the commercial Court on matters of Court practice and to submit a list of persons knowledgeable in commercial matters to serve as assessors.

Staff of the
Court.

8. There shall be such staff of the Court who shall be officers in judicial service and who shall be under the general supervision of the Registrar of the Court and Judicial Service Commission.

Sittings of
the Court.

9.(1) The Court may sit on such occasion and at such places as the business of the Court may demand or as the Chief Justice may from time to time determine.

(2) For the purpose of carrying out of its functions under this Act, the Court shall be properly constituted if presided over by the presiding judge and two assessors.

(3) At the conclusion of the proceedings before the Court, the presiding judge shall seek and record the opinion of each of the assessors present at such conclusion.

(4) The presiding judge shall not be bound by the opinions of the assessors but in the event of disagreement with the opinion of any of them the Judge shall record the opinion of that assessor and the reasons for his or her disagreement.

(5) No proceeding shall be invalid by reason only of an irregularity in the selection or appointment of any assessor.

(6) The court may invite any person as a friend of the court.

PART III INSTITUTION OF SUITS

10.(1) Unless otherwise provided by this Act or any other written law, proceedings may be instituted by plaint or by originating summons and paying court fees provided in schedule 1 to this Act.:

Institution
of the
proceedings.

(2) Notwithstanding the generality of subsection (1), the following proceedings may be instituted by way of originating summons: -

- (a) those in which the sole or principal question at issue deals with or is likely to deal with construction of any deed, contract or other document, or some other questions of law; or
- (b) those in which there is no likelihood of any substantial dispute of fact, unless the plaintiff intends in those proceedings to apply for judgment under Order XVI of the Decree or for any other reason he considers the proceedings to be more appropriate to be instituted by a plaint.

11.(1) The Court shall cause to be maintained a register to be known as the Register of Commercial Cases in which particulars of cases as may be admitted by the Registrar to be instituted in the Court shall be entered.

Register of
cases.

(2) Any particular of cases entered in the Register shall be numbered chronologically in each year according to the order in which its records are entered.

12. The Judge in Charge of the Court or any other Judge acting in that capacity shall, unless the circumstances do not permit of which shall be recorded, within a maximum of five working day after the institution of the suit, cause it to be manually or electrically assigned to a specific Judge.

Assignment
of suits.

PART FOUR
PRE- TRIAL SCHEDULING AND CONFERENCE

Power to
make orders
and
directions.

13.(1) Notwithstanding anything in this Act, the Court shall within fifteen working days from the date of completion of pleadings, on its own motion direct any part or parties to proceedings to appear before it, in order that the court may make such order or give such direction in relation to any interim applications which parties have filed or intend to file as it considers fit, for the just, expeditious and economical disposal of the suit.

(2) Where any party fails to comply any order or direction given by the court under subsection(1), the court may make such orders as it considers fit.

(3) Any order or direction given or made against any party who does not appear before the court when directed to do so under subsection (1) may be set aside or varied by the court on such terms as it considers just.

Pre-trial
conference.

14.(1) The Court may, at any time before a case is tried, direct parties to attend a pre-trial conference relating to matters arising in the suit or proceedings.

(2) The Court may, at the pre-trial conference consider any matter including the possibility of settlement of all or any of the issues in the suit or proceedings and require the parties to furnish to the Court with any such information as it considers fit, and may also give all such directions as it appears to be necessary or desirable for securing the just, expeditious and economical disposal of the suit or proceedings.

(3) The Court, having made directions under this section or section 24 may, on its own motion or upon the application by any party, if any party defaults in complying with any such directions, dismiss such suit or proceedings or strike out the defence or counter-claim or enter judgment or make such order as it considers fit.

(4) At any time during the pre-trial conference where the parties are agreeable to a settlement of some or all of the matters in dispute in the suit or proceedings, the Court may enter judgment in the suit or proceedings or make such order to give effect to the settlement.

15. All parties shall be informed of the date and time appointed for the holding of the pre-trial conference in their presence or by way of a notice in Form No. 1 prescribed in the Schedule 2 to this Act, and each party shall comply with any directions given viva voce or in such notice as the case may be. Notification of pre-trial.

16.(1) If at the time appointed for the pre-trial conference, one or more of the parties fails to attend, the Court may dismiss the suit or proceedings or strike out the defence or counterclaim or enter judgment or make such other order as it considers fit. Failure to appear by one or more parties.

(2) An order made by the Court in the absence of a party concerned or affected by the order may be set aside by the Court, on the application of that party within 14 days of the order, on such terms as it considers just.

(3) Without prejudice to the preceding sub sections of this section, where one or more of the parties to the suit or proceedings fails to attend the pre-trial conference, the Court may, if it considers fit, adjourn the conference.

(4) Subsequent to the first adjournment if all parties fail to attend the pre-trial conference the court shall dismiss the suit.

17.(1) All commercial cases shall proceed and be determined within ten months of commencement but shall not exceed twelve months: Speed track of cases.

Provided that, where-

- (a) there is likelihood to extend such time, the party shall make an application to the Court 30 days before lapse of twelve months and the Court may extend such time bearing in mind the complexity of the case.

- (b) a scheduling conference order is made, no departure from or amendment of such order shall be allowed unless the Court is satisfied that such departure or amendment is necessary in the interests of justice and the party in whose favour of whom such departure or amendment is made shall bear the costs of such departure or amendment, unless the Court directs otherwise.

(2) Notwithstanding the provision of subsection (1), the Court may in suo moto extend such a time depending on circumstances of the case.

PART FIVE MEDIATION

Submission
to
mediation

18. If the suit is not settled or dismissed under the provisions of section 13, 14, 15 or 16 of this Act the Court shall direct the parties to submit their case to mediation and upon making such order; the Court shall appoint a mediator who shall set a date for mediation process to commence unless the parties have jointly filed a declaration to the effect that mediation is not worthwhile.

Attendance
to
mediation

19. Where a third party is liable to satisfy all or part of a judgment in the suit or to indemnify or reimburse a party for money paid in satisfaction of all or part of a judgment in the suit, the third party or his advocate may also attend the mediation session, unless the Court orders otherwise.

Authority to
settle
matters.

20.(1) A party to a mediation session shall have authority to settle any matter during the mediation session and report the same to the Court..

(2) A party who requires the approval of another person before agreeing to a settlement shall, before the mediation process commence, arrange to have ready means of communication to that other person throughout the session, whether it takes place during or after regular business hours.

21.(1) If it is not practicable to conduct a scheduled mediation session because a party fails without good cause to attend within the time appointed for the commencement of the session, the mediator seized of the case may-

Failure of party to attend mediation

- (a) dismiss the mediation process, if the non-complying party is a plaintiff, or strike out the defence, if the non-complying party is a defendant;
- (b) order a party to pay costs; or
- (c) make any other order that is deemed just.

(2) This section shall not apply where the parties have complied with paragraphs (d) and (e) of section 23(2) of this Act.

22.(1) Any party aggrieved by an order made by the mediator under section 29 of this Act may, within seven days from the date of the order, file in Court an application in a member to be prescribed under Rules to be made by Chief Justice under section 40(1) of this Act.

Restoration of the suit dismissed for non appearance to mediation.

(2) Upon establishing that fees and cost for restoration of mediation have been fully paid, the mediator shall set aside orders under section 32 of this Act and restore the suit or the defence as the case may be and issue a notice for mediation.

23.(1) In conducting any mediation session under this Act:-

Role of mediator

- (a) the parties shall strive to reduce cost and delay in litigation, and facilitate an early and fair resolution of disputes; and
- (b) the mediator shall facilitate communication between or among the parties to the dispute in order to assist them in reaching a mutually acceptable resolution.

(2) Without derogation from the generality of sub section (1), the mediator:-

- (a) shall, in an independent and impartial manner, do everything necessary to help the parties to resolve their dispute;
- (b) may, where necessary, conduct joint or separate meetings with the parties and may make recommendations for a settlement;
- (c) may, where services of an expert may be obtained at no cost or without expense, or where such services may be obtained at a cost, and if parties agree to pay such costs or expenses, obtain expert advice on a technical aspect of the dispute, which advice shall be given in an independent and impartial manner;
- (d) shall be guided by principles of objectivity, fairness and natural justice, and shall give consideration to, among other things:-
 - (i) the rights and obligations of the parties;
 - (ii) the usages of the trade concerned; and
 - (iii) the circumstances surrounding the disputes, including any previous business practices between the parties;
- (e) may, at any stage of the mediation proceedings and in a manner that the mediator considers appropriate, take into account the wishes of the parties, including any request by either of the parties that the mediator shall hear oral statements for a speedy settlement of the dispute; and
- (f) may, at any stage of the mediation proceedings, make proposals for the settlement of the dispute.

(3) A request for the services of an expert under this section may be made by the mediator with the consent of parties or by any party with the consent of the other party.

24. All communications at a mediation session and the mediation notes and records of the mediator shall be deemed to be confidential and party to a mediation may not afterwards rely on the record thereof; statement made thereat; or any information obtained during the mediation as evidence in proceedings before Court or any other subsequent settlement initiative, except in relation to proceedings brought by either party to vitiate the settlement agreement on the grounds of fraud.

Confidentiality.

25. A mediation period shall not exceed a period of fourteen days from the date of the first session of mediation.

Duration of mediation.

26.(1) A mediation shall end when:-

End of mediation.

- (a) the parties executed a settlement agreement;
- (b) the Mediator cancels a mediation session under section 31 for non-compliance on the part of any party;
- (c) the Mediator, after consultation with the parties, makes a declaration to the effect that further mediation is not possible or worthwhile;
- (d) the parties jointly agree that the mediation is to be terminated; or
- (e) a party makes a declaration to the mediator and the other party to the effect that the mediation is terminated; or
- (f) fourteen days expires from the date of the first session of mediation.

(2) A declaration under sub-section (1) may be made in writing or orally, but where a declaration is made orally, the mediator shall record it in writing.

27. Where upon the conclusion of mediation no settlement agreement is reached, the action shall revert to the trial Judge who shall continue with trial proceedings from the point when and at which the suit was referred for mediation

Failure to reach settlement by mediation.

Assessors.

28.(1) The trial of suit in the Court shall be with the aid of assessors who shall not be less than two and generally knowledgeable on the field concerning the suit, and shall be selected from a list submitted to the Court by the Commercial Court Users' Committee.

(2) The Chief Justice shall, upon recommendation of the Commercial Court Users Committee and by notice in the Gazette determine the remuneration or compensation to be paid to the assessor for service rendered.

Evidence by affidavit in suit commenced by originating summons.

29.(1) In any cause or matter commenced by originating summons and on any application made by chamber summons, evidence shall be given by affidavit unless the Court otherwise directs.

(2) The Court may, on the application of any party, order the attendance for cross-examination of the deponent of any such affidavit.

(3) Where an order has been made under sub section (2) of this section, and the deponent in question does not attend, his/her affidavit shall not be used as evidence unless the court is satisfied that there are exceptional reasons for failure to appear.

(4) Where the Court admits an affidavit of a person who has failed to appear for cross examination, lesser weight shall be attached to such affidavit.

Language of the court.

30. The language of the Court shall either be Kiswahili or English, provided that all proceedings before the Court shall be recorded in English.

Evidence by video.

31. (1) On an application by a party, the Court may allow a witness to give evidence without being present in the courtroom, through a video clips at the cost of the applicant.

(2) Where a witness is allowed to give evidence under the terms of subsection (1) the other party shall be afforded opportunity to cross examine him or her using the same means.

32.(1) An official record shall be made of every hearing and the official record of hearing shall consist of the following: Recording of evidence.

- (a) in a hearing where an audio recording system approved and managed by the Court or any other person appointed by the Court is used, the audio recording; and
- (b) in a hearing where an audio recording system is not used, the notes of hearing recorded in such manner as the Court may determine.

(2) Any party may, in writing, request for a copy or a transcript of the official record of hearing upon payment of prescribed fees.

(3) A request for a copy of an official record of hearing shall be made in writing:

Provided that the grant of such request shall be subject to approval of the Court if made by a person other than the parties to the suit.

33.(1) No person shall make or publish any audio or video recording of any hearing without the approval of the Court. Prohibition of unauthorized audio and video recording.

(2) A person who contravenes sub section (1) of this section commits an offence and shall upon conviction be liable to a fine of not less than three million shillings or imprisonment for a term not exceeding six months, and the Court may order confiscation of equipment used for such recordings or destruction of the recorded audio or video.

(3) Procedure to be applied for convicting a culprit under this section shall be the same to that of the contempt of court.

34. Every official record of hearing shall be kept for a period of ten years from the date of final determination or if an appeal is preferred for five years from the determination of the appeal. Duration for record.

35.(1) At the conclusion of a hearing a judgment or a ruling shall be delivered orally or in writing within a period of sixty (60) days in case of a judgment or thirty days (30) in case of a ruling. Judgment and decree

(2) Where the Judge fails to comply with the provisions of sub section 1 of this section the Judge shall state the reason for such failure in delivering the judgment or in the ruling.

(3) Every judgment shall contain a decree embodied in it as an order of the Court duly enforceable by the parties to the suit or any other party as the case may be.

Summary judgment.

36. Notwithstanding the provision of Order XXIX of the Decree, the Court may give summary judgment against a party on the whole or any part of a claim or on a particular issue if it satisfies itself that-

- (a) the plaintiff has no real chance of succeeding on the claim or issue; or
- (b) the defendant has no real chance of successfully defending the claim or issue; and
- (c) there is no other reason why the case or issue should not be disposed of at a trial.

PART SIX MISCELLANEOUS PROVISIONS

Deputy Registrar.

37. Deputy Registrar shall be appointed by the Chief Justice after recommendation by the Judicial Service Commission.

Powers of deputy registrar.

38. In addition to Registrar's powers provided under Order LI of the Decree, the Deputy Registrar of the Court may, in proceedings before the Commercial Court, conduct mediation under Part IV of this Act.

Consequences of a defective affidavit.

39. Where the Deputy Registrar is of the opinion that an affidavit in support of an application or a counter affidavit contradicts Order XXII of the Decree, he/she may reject the application or the counter affidavit and notify the relevant party or parties thereof:

Provided that the affidavit shall not be deemed defective by the Deputy Registrar unless-

- (a) it is not signed by the deponent;
- (b) it is not completed and signed by the person before whom the affidavit was sworn or affirmed;
- (c) It does not contain the full name, address and qualification of the person before whom it was sworn or affirmed; or
- (d) It does not contain a declaration or verification or contains a defective declaration or verification.

40.(1) The Chief Justice shall have power to make rules for:-

- (a) reviewing court fees;
- (b) reviewing pecuniary jurisdiction of the Court,
- (c) qualification of mediators other than Judges and the Deputy Registrar,
- (d) Remunerations of assessors and mediators other than Judges and the Deputy Registrar; and
- (e) Any other direction for the speeding of procedures and filling any gaps in the Court practices.

Powers of Chief Justice to make Rules of the Court.

(2) The Chief Justice may, after consultation with the Court Users Committee by a notice published in the Gazette appoint a panel of Mediators to take part in mediation process; Court Brokers and Process Servers.

41. The Minister may by Order published in the Gazette make regulations for the better carrying out the provisions of this Act.

Power of Minister to make Regulations.

Schedule

COURT FEES

1. These fees shall only apply in respect of suits and application filed in the Commercial Court.
2. For every subject matter or amount claimed whose value is up to TSH. 200,000,000/=, 1% of the value shall be payable as Court fees.
3. Where the value or amount claimed exceeds Tsh. 200,000,000, 0.5% of that excess shall be payable in addition to the 1% payable under item 2 above.
4. Fee to be payable for unreasonable adjournment of cases is Tsh. 150,000/=.
5. Fee for filing a written statement of defence is Tsh. 10,000/= . Provided that, where a counter claim is raised in a written Statement of defence, fee payable shall be 1% of the value of claim.
6. Fee for filing attachment is Tsh. 5,000/= per attachment.
7. Fee for any application under the Act, is Tsh. 20,000/=

SCHEDULE

FORM NO.1

(Made Under section 15)

Notification of pre-trial Conference

THE REVOLUTIONARY GOVERNMENT OF ZANZIBAR

IN THE COMMERCIAL COURT FOR ZANZIBAR

AT

COMMERCIAL CASE NO.OF 20.....

..... **PLAINTIFF**

AND

..... **DEFENDANT**

NOTICE OF PRE-TRIAL CONFERENCE

(Section 15)

To

Take notice that you are required to attend before the Hon. Judgeor Registrar.....on.....day of.....20..... at.....forenoon/afternoon for a pre-trial conference.

Please Take note further that in the event that a plaintiff and, if represented, the plaintiff's advocate do not appear at the Pretrial Conference, the Hon. Judge or Registrar may **dismiss the suit or proceedings**. In the event that a defendant and, if represented, the defendant's advocate, do not appear at the Pre-trial conference , the Judge may **strike out the defence or counterclaim or enter judgment or make such other order as the Judge considers fit**.

Given under my under hand and the seal of this court on the day of20....

.....

Judge

OBJECT AND REASONS

The Revolutionary Government of Zanzibar (RGZ) has developed a comprehensive framework to reform and improve the legal, institutional and operational framework of conducting business in Zanzibar. One of the areas addressed under the programme is the need to create a commercial court in Zanzibar. Special efforts that have been carried out by the Ministry of Justice and Constitutional Affairs of the Revolutionary Government of Zanzibar have made it possible the production of this Bill for the establishment of a Commercial Court in Zanzibar.

The Bill has considered challenges facing the settlement of commercial disputes under the existing legal framework. The existing legal framework considers commercial disputes like any other disputes. That is, there are no preferential considerations specifically earmarked to accord necessary measures that meet the challenges facing development of businesses in Zanzibar.

Several policies both national and sectoral have identified challenges that tend to impede smooth development business industry in Zanzibar. Some of the challenges so identified point specifically to the need for establishment of a separate court to deal will commercial cases. There are also challenges that tend even to inform as to what features a properly constituted commercial court should take for addressing basic challenges that face contemporary investment and entrepreneurship developments taking place in Zanzibar. This Bill for the Zanzibar Commercial Court Act has considered all these among other challenges. Thus, by itself, this Bill is a special measure devised to meet all basic challenges relating to justiciability of commercial disputes that would in one way or another affect the reliable developments in Zanzibar businesses.

The Bill is divided into 6 main parts containing a total of 41 sections. Part One that runs from section 1 to 3 is the preliminary part. It provides for short title, commencement, application and interpretation. Part Two runs from section 4 to 9 and makes provisions that are administrative in nature. It deals with establishment of the Commercial Court and its composition and jurisdiction. Also this part covers some other matters relating to the working of the Zanzibar Commercial Court.

Part Three runs from section 10 to 12, and provides for institution, registration and assignment of suits before the Commercial Court. Part Four is about pre-trial Scheduling and conferences. Part Five which concerns arbitration runs from section 18 to 36. It deals with assignment of cases to mediator, appearance before a mediator, consequences of failure to appear, role of mediators, confidentiality, duration for mediation and end of mediation. Procedure for failure to settle a dispute in mediation proceedings is also provided. Issues of evidence including acceptability of audio and video phone is also described.

Part Six runs from section 37 to 41 concerns miscellaneous provisions. It provides for appointment of Deputy Registrar and his/her powers, consequences of defective affidavit, powers of Chief Justice to make Rules and powers of the Minister to make Regulations for better implementation of the Act.

Lastly, is a schedule that provides for a form of notice of pre-trial conference and fees to be charged before Commercial Court.

ZANZIBAR
24th December, 2013

(OTHMAN MASOUD OTHMAN)
Attorney General

