

NO. 6 OF 1984



AN ACT TO MAKE PROVISION CONSEQUENTIAL
OF THE CONSTITUTION UPON THE ENACTMENT
OF ZANZIBAR, 1984 AND FOR MATTERS
CONNECTED WITH THE ENACTMENT
OF THAT CONSTITUTION

THE CONSTITUTION (CONSEQUENTIAL,
TRANSITIONAL AND TEMPORARY PROVISIONS)
ACT, 1984

ARRANGEMENTS OF SECTIONS

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I AGREE



ALI HASSAN MWINYI
THE PRESIDENT OF ZANZIBAR AND
CHAIRMAN OF THE REVOLUTIONARY
COUNCIL

1-12-1984.

AN ACT TO MAKE PROVISION CONSEQUENTIAL UPON THE ENACTMENT
OF THE CONSTITUTION OF ZANZIBAR, 1984 AND FOR MATTERS
CONNECTED WITH THE ENACTMENT OF THAT CONSTITUTION

ENACTED by the House of Representatives of
Zanzibar.

Short title,
construction
and commence-
ment.

1. This Act may be cited as the Constitution
(Consequential, Transitional and Temporary Provisions)
Act, 1984, and shall be read as one with the Constitution
of Zanzibar, 1984, and shall come into operation on the
commencement of that Constitution.

Interpretation.

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

"the Constitution" means the Constitution
of Zanzibar, 1984 (entitled in Kiswahili
"Katiba ya Zanzibar, ya mwaka 1984")
enacted by the Constituent House of
Zanzibar;

"existing law" means the written and unwritten
law of Zanzibar as it exists immediately
before the commencement of the Constitution,
and for the avoidance of doubts it is
hereby declared that it includes a law
enacted or made before, and coming into
operation before or after, the commencement
of the Constitution;

"existing law" means the written and unwritten law of Zanzibar as it exists immediately before the commencement of the Constitution, and for the avoidance of doubts it is hereby declared that it includes a law enacted or made before, and coming into operation before or after, the commencement of the Constitution;

"the 1979 Constitution" means the Constitution of the Revolutionary Government of Zanzibar, 1979 entitled in Kiswahili "Katiba ya Serikali ya Mapinduzi ya Zanzibar ya mwaka 1979".

This Act to prevail over the Constitution.

3. The provision of this Act shall have effect notwithstanding anything contained in the Constitution.

Continuity of laws and legal proceedings.

4. (1) Without prejudice to the repeal, revocation or amendment of any existing law, with effect from the commencement of this Act the existing law, shall continue to be the law of Zanzibar after the commencement of the Constitution except in so far as it is amended, modified, repealed or revoked by competent authority or any provision of it expires after the commencement of the Constitution.

(2) The existing law shall be construed with such modifications adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the provisions of the Constitution or of this Act; and for the avoidance of doubts it is hereby declared that, subject to the modifications, adaptations, qualifications and exceptions with which the existing law shall be construed and subject also to the other provisions of this Act, the operation of the existing law after the commencement of the Constitution shall not be affected by the repeal of the Katiba ya Serikali ya Mapinduzi ya Zanzibar 1979.

"existing law" means the written and unwritten law of Zanzibar as it exists immediately before the commencement of the Constitution, and for the avoidance of doubts it is hereby declared that it includes a law enacted or made before, and coming into operation before or after, the commencement of the Constitution;

"the 1979 Constitution" means the Constitution of the Revolutionary Government of Zanzibar, 1979 entitled in Kiswahili "Katiba ya Serikali ya Mapinduzi ya Zanzibar ya mwaka 1979".

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(2) The existing law shall be construed with such modifications adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the provisions of the Constitution or of this Act; and for the avoidance of doubts it is hereby declared that, subject to the modifications, adaptations, qualifications and exceptions with which the existing law shall be construed and subject also to the other provisions of this Act, the operation of the existing law after the commencement of the Constitution shall not be affected by the repeal of the Katiba ya Serikali ya Mapinduzi ya Zanzibar 1979.

(5) The President may, at any time before 31st March, 1985, by order published in the Gazette, make such amendment to any existing law as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of the Constitution or for giving effect or enabling effect to be given to those provisions.

Constitutional requirements fulfilled by existing law.

5. Where any matter that falls to be prescribed or provided for under the Constitution by any Act of the House of Representatives or by any other authority or person is prescribed or provided for under existing law (including any amendment made to that law under section 4 of this Act) that prescription or provision shall, as from the commencement of the Constitution have effect as if it has been made under the Constitution by An Act of the House of Representatives or, as the case may be by the other authority or person.

Pending matters.

6. Where any matter or thing has been commenced, or any step has been taken, before the commencement of this Act, by any person or authority having power for that purpose under existing law, the matter or thing may be carried on and completed and further steps may be taken by the person or authority having power for that purpose on or after the commencement of this Act, and it shall not be necessary for the later person or authority to reconsider the matter or thing or take the step afresh.

Officers and Officers.

7. (1) Subject to the provisions of subsections (2) and (3) of this section, every person who, immediately before the commencement of the Constitution, holds or is acting in any office established by or under the 1979 Constitution shall so far as is consistent with the provisions of the Constitution be deemed as from the commencement of the Constitution, to have been elected or appointed to the like office or to act in the like office established by or under the Constitution shall be deemed to be in the service of the Government of Zambia and to have complied with any requirement of the Constitution or, of other written law, to take and subscribe any oath on election or appoint to office.

(2) Any person who, under the 1979, Constitution or existing law, would be required to vacate his office at the expiration of any period or on the attainment of any age shall vacate his office at the expiration of that other period or upon the attainment of that other age as provided by the Constitution.

(3) The provisions of this section shall apply without prejudice to the powers conferred by or under any law upon any person or authority to make provisions for the abolition of offices, to remove persons holding or acting in offices, or to require persons to retire from office.

Continuation
of the House
of Represent-
atives
established
under the
1979
Constitution.

8. (1) Subject to the provisions of subsection (2) of this section, but notwithstanding the enactment of the Constitution and the provision in that Constitution relating to the composition of the House of Representatives the Speaker and the persons who, immediately before the commencement of the Constitution are members of the House of Representatives established under the 1979 Constitution shall continue to be the Speaker and members respectively and to constitute, the House of Representatives, under the Constitution until the next dissolution of the House made after the commencement of the Constitution and in accordance with the provisions of that Constitution.

(2) The provisions of subsection (1) of this section shall apply without prejudice to the operation of the provisions of the 1979 Constitution relating to vacation of the office of Speaker or seat of a member of the House of Representatives in the circumstances prescribed by the 1979 Constitution.

(3) The standing rules and orders and other rules of procedure of the existing House of Representatives as in force immediately before commencement of the Constitution shall except as may be otherwise provided by the House of Representatives, continue to be the standing Rules and Orders and rules or procedure of the House of Representatives after the commencement of the Constitution but shall be construed with such modifications, adaptations, qualification and exceptions as may be necessary to bring them into conformity with the Constitution.

The President
of Zanzibar
and Chairman
and Members
of the
Revolutionary
Council of
Zanzibar.

9. (1) Subject to the provisions of subsection (2) of this section, but notwithstanding the enactment of the Constitution and the provisions in that Constitution relating to the election of the President and Chairman of the Revolutionary Council of Zanzibar and the composition of the Revolutionary Council of Zanzibar, the President of Zanzibar and the person who, immediately before the commencement of the Constitution are members of the Revolutionary Council of Zanzibar in accordance with the 1979 Constitution shall continue to be the President and Chairman and members respectively of, and constitute, the Revolutionary Council, under the Constitution until the next election of the President of Zanzibar and the appointment of the members of the Revolutionary Council made after the commencement of the Constitution and in accordance with the provisions of that Constitution.

(2) The provisions of subsection (1) of this section shall apply without prejudice to the operation of the provisions of the law in force in Zanzibar relating to the vacation of the office of President of Zanzibar or the termination of the appointment of any person to membership of the Revolutionary Council in the circumstances prescribed by or under that law.

Legal
proceedings.

10. (1) Any proceeding pending immediately before the commencement of the Constitution before the High Court established by the 1979 Constitution may be continued and concluded, and decrees, judgment and orders in that proceeding may be given and perfected after the commencement of the Constitution before and by the High Court established by the Constitution.

(2) Every decree, judgment or order given or perfected by the High Court established by the 1979 Constitution or by any former High Court which shall not have been fully executed or enforced before the commencement of the Constitution, may be executed and enforced after the commencement of the Constitution by the High Court established by the Constitution and, in so far as they have jurisdiction, by courts subordinate to the High Court.

Repeal of
1979 Consti-
tution,
transitional
and saving.

11. (1) The 1979 Constitution is hereby repealed.

(2) Any thing done or made under the repealed Constitution shall continue in force as act done or made under the corresponding provision of the Constitution until revoked, or where such act legalised by an Act of the House of Representatives until such Act is repealed or amended.

Provided that such act or thing done is not in consistent with the Constitution.

(3) Any orders, directions, appointment and other acts lawfully made or done under a provision of any existing law or any enactment repealed and in force immediately before the commencement of this Constitution and this transitional Act shall continue to have effect accordingly.

Date of
commencement
of the
Constitution.

12. The 1979 Constitution shall continue to be in force from the date the new Constitution is passed to the day it is assented by the President and the date of its coming into force being published in the Gazette, and the 1979 Constitution shall then cease to have effect immediately thereafter.

Passed in the House of Representatives on 10th
October, 1984.


[IDI P. HASSAN]
CLERK TO THE HOUSE OF
REPRESENTATIVES