

THE LAW REVIEW COMMISSION OF ZANZIBAR  
ACT, 1986.

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ARRANGEMENT OF SECTIONS.

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ACT NO. 16 OF 1986

I ASSENT

*Idris Abdul Wakil*

IDRIS ABDUL WAKIL  
PRESIDENT OF ZANZIBAR  
AND  
CHAIRMAN OF THE REVOLUTIONARY  
COUNCIL.

*9th February* ..... 1987.

AN ACT TO ESTABLISH THE LAW REVIEW  
COMMISSION OF ZANZIBAR.

ENACTED BY THE HOUSE OF REPRESENTATIVES  
OF ZANZIBAR.

PART I  
PRELIMINARY

Short title  
and  
commencement.

1. This Act may be cited as the Law Review Commission of Zanzibar Act, 1986 and shall come into operation on such date as the Minister may, by notice published in the Gazette appoint.

Interpretation.

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

"the Commission" means the Law Review Commission of Zanzibar established by section 3;

"Commissioner" means a person appointed to be Commissioner under section 5 and includes the Chairman;

"high judicial office" means the office of a Judge of the Court of Appeal of the United Republic or of a Judge of the High Court of Zanzibar or the United Republic;

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

2/....

"reference" means a reference by the Attorney-General to the Commission under this Act.

PART II

THE LAW REVIEW COMMISSION OF ZANZIBAR

Establishment  
of the  
Commission.

3. There is hereby established a Commission which shall be known as the Law Review Commission of Zanzibar.

Functions of  
the  
Commission.

4.(1) The functions of the Commission shall be to take and keep under review all the law of the Zanzibar with a view to its systematic development and reform.

(2) In particular, but without prejudice to the generality of subsection (1), the Commission may, whether at its own instance or otherwise :-

- (a) review any law or branch of the law and propose measures necessary for -
  - (i) bringing that law or branch of the law into accord with current circumstances of Zanzibar;
  - (ii) eliminating anomalies or other defects in the law, repealing obsolete or unnecessary laws and reducing the number of separate enactments; and
  - (iii) the proper modification and simplification of that law or branch of law;
- (b) consider and advise on proposal for the adoption of new or more effective methods for the administration of the law and the dispensation of justice;
- (c) from time to time, prepare and submit to the Government programmes for the examination of different branches of law with a view to reforming those laws, including recommendations as to the agency, whether the Commission or another body, by which any such examination should be carried out;



- (d) at the request of the Government, prepare comprehensive programmes for the consolidation and revision of laws, and undertake the preparation of any draft Bills pursuant to any such programme approved by the Government;
- (e) at the instance of the Government provide advice and assistance to any Ministry or department or any public authority or institution by undertaking the examination of any particular branch of the law and making recommendation for reform so as to bring it into accord with current circumstances.

(3) The Commission may, for the purposes of the more affective performance of its functions, establish and maintain a system of collaboration, consultation and co-operation with any person or body of persons within or outside the United Republic engaged in law reform and may, for that purpose -

- (a) establish a system for obtaining any information relating to the legal systems of other countries which appears to the Commission likely to facilitate the performance of any of its functions;
- (b) publish or facilitate the publication, in Zanzibar, of materials relating to law reform in other countries;
- (c) convene, or facilitate or promote the convention of, seminars, workshops, public lectures and other meetings of the public for the purposes of discussion on or dissemination of information or matters relating to law reform in Zanzibar.

Composition  
of the  
Commission.

5.(1) The Commission shall consist of a Chairman and not less than four nor more than seven other Commissioners, all of whom shall be appointed by the President.



(2) A person may not be appointed to be a Commissioner unless he -

- (a) holds or has previously held, or is qualified for appointment to, a high judicial office in Zanzibar;
- (b) is a person who has been enrolled as an advocate in Zanzibar for not less than five years;
- (c) is a person who is a graduate in law of a university whose degree awards in law are recognized by the Government of Zanzibar and who has since graduation had experience in the practice of law for not less than five years;
- (d) is a teacher of law in a University or other institution of equivalent or similar status who has a teaching experience of not less than five years; or
- (e) is a person who, in the opinion of the President is, by reason of his special qualifications, training or experience in the social economic or political affairs of Zanzibar, able to contribute to the proper and effective discharge of the functions of the Commission or is otherwise suitable for appointment to the Commission.

Tenure of office.

6.(1) The Chairman shall be appointed as a full-time Commissioner and shall, unless he sooner resigns or ceases to be a Commissioner in any other way, hold office for a term of five years from the date of his appointment, and shall be eligible for re-appointment.

(2) A Commissioner other than the Chairman shall be appointed either as a full-time or a part-time Commissioner and shall, unless he sooner resigns or ceases to be a Commissioner in any other way, hold



office for a term of three years from the date of his appointment, and shall be eligible for re-appointment.

(3) The appointment of Commissioners and the re-appointment of Commissioners at the expiration of their term of office shall be so made as to ensure the continuity of the informed and effective performance of the functions of the Commission.

(4) The holder of a high judicial office shall not be appointed as a full-time Commissioner other than the Chairman, unless the Chairman is the holder of a high judicial office.

(5) Where a person holding an office in the public service, other than a high judicial office, is appointed as a full-time Commissioner, he shall cease to hold that first mentioned office but his service as a Commissioner shall be deemed to be continuous with his previous employment in the public service for the purposes of determining his entitlement to any pension, gratuity or other superannuation benefit, and at the expiration of his term of office as a Commissioner he shall, subject to the provisions of the law for the time being in force relating to retirement, be reinstated in the public service in such office or capacity as the President shall determine.

(6) The appointment of, or service by, a person who holds a high judicial office as a Commissioner shall not effect his tenure of that high judicial office or his rank, title, status, precedence, salary or allowance of any kind or other rights or privilege as the holder of that office and, for all purpose, his service as a Commissioner, whether full-time or part-time, shall be taken to be service as the holder of that high judicial office.

(7) Subject to the provisions of this Act, the instrument of appointment of each Commissioner shall specify the term and conditions of his appointment.



PART III

PROCEDURE AND POWERS OF THE COMMISSION

Directions  
by the  
Minister.

7. The Minister may from time to time, after consultation with the Attorney-General, give to the Commission directions of a general or specific nature in relation to the performance of its functions, and the Commission shall comply with every such direction.

Attorney-  
General to  
refer  
matters  
to the  
Commission.

8.(1) Subject to any directions given by the Minister, the Attorney-General shall, from time to time, refer to the Commission matters which the Commission may, subject to the provisions of this Act examine and report upon and make recommendations with a view to reforming the law in relation to those matters.

(2) The Attorney-General may, in pursuance of the provisions of subsection (1), refer to the Commission matters connected generally with specific enactment or category of enactments.

- (3) The Attorney-General may -
- (a) modify the terms of any reference; or
  - (b) give directions to the Commission as to the order in which it shall deal with references.

(4) The Attorney-General shall not refer to the Commission any matter which he knows to be the subject of proceedings in any court in the United Republic to which the Zanzibar is a party, or matters in respect of which it is intended to commence proceedings in a court.

Commission  
may initiate  
own work.

9.(1) The Commission may, subject to informing the Attorney-General in that behalf, undertake the examination of any matter without waiting for a reference on it by the Attorney-General.

7/....



(2) Notwithstanding the generality of the power conferred by subsection (1), the Commission shall not undertake the examination of any matter which it knows to be the subject of proceedings in any court in the United Republic to which Zanzibar is a party.

Commission to involve the public in its work.

10.(1) In carrying out an examination of any matter whether or not in pursuance of a reference, the Commission may so arrange its work as to enable it to educate the public on the issues involved in that matter and to obtain the views of the greatest possible number of the people of Zanzibar on the issues in question.

(2) For the purposes of complying with the provisions of subsection (1), the Commission may do all such acts as in its opinion are necessary to achieve participation by the public in the work of the Commission and may, in particular -

- (a) organize and hold seminars for the discussion of matters of public concern relevant to the subject of reference;
- (b) arrange for public lectures to be given by Commission;
- (c) call for and promote public debates at meetings called by, or for the purposes of, the Commission or through the mass media;
- (d) establish and publish a bulletin, periodical or other publication for the purposes of disseminating information on law reform;
- (e) do anything which in the opinion of the Commission, is necessary or desirable for the purposes of publicising its tentative reform recommendations and to obtain awareness of and response to them by the public.



General  
powers  
of the  
Commission.

11.(1) The Commission may appoint a Committee or committees for the purpose of dealing with any particular matter or matters referred to the Commission or intended to be proposed by the Commission to the Attorney-General.

(2) For the purposes of dealing with any particular matter referred to it, the Commission may co-opt such number of persons to assist it in the collection and organization of material as it may deem necessary.

(3) The Commission may call upon any person to furnish to it such information as may be specified by the Commission.

(4) The Minister may, from time to time make rules regarding -

- (a) the procedure to be complied with by the Commission in co-opting persons to assist the Commission, and the terms and conditions of service of those persons or the Commission;
- (b) the procedure for the submission to the Commission of any proposals relating to law reform;
- (c) the manner in which proposals for law reform other than those which are included in references, may be brought to the attention of the Attorney-General;
- (d) the procedure to be adopted with regard to proposals for law reform made to the Commission by any member of the public and not connected to any reference, or any other matter, already before the Commission.

Commission  
to act  
independently.

12. Subject to the provisions of this Act, the Commission shall in the performance of its functions under this Act, act independently in its deliberations and formulation of its recommendations.



Matters to  
be taken  
into  
account.

13.(1) Without prejudice to the independence conferred by section 12, in the performance of its functions under this Act, the Commission shall take into account the need for having in Zanzibar laws which are in accordance with, and which facilitate the implementation of, the policy of Ujamaa and Self-reliance.

(2) In particular, the Commission shall consider and make proposals for law reform with a view to ensuring that the laws of Zanzibar are so made as -

- (a) to promote and expand the principles and practice of human equality and freedom as stipulated in the Constitution of Chama cha Mapinduzi, the Constitution of the United Republic of Tanzania and Constitution of Zanzibar.
- (b) to promote and secure the decolonisation of the law of Zanzibar by the refinement of and adaptation of the customs, traditional values and beliefs of the people of Zanzibar which are suitable for application in conjunction with modern progressive legal ideas;
- (c) to promote interest in, and ensure respect for, the rule of law by discouraging arbitrariness, officialism and excessive bureaucracy;
- (d) to ensure the development of a just system for the equal dispensation of justice and the better protection of communal and individual property of the people of Zanzibar;
- (e) to promote and enhance respect for human rights by all persons in their conduct of official business and personal affairs.

10/....



Submission  
of  
conclusions.

14.(1) Subject to subsection (2), where the Commission reaches definite conclusions on any matter for the time being under its consideration, it shall draw up a report in suitable form, incorporating such recommendations as it thinks fit, and submit it to the Minister.

(2) Where the Attorney-General has referred a matter to the Commission -

(a) the Commission may, at any time before making its report in pursuance of the reference, submit to the Minister an interim report on its work under the reference; and

(b) the Attorney-General may, at any time before the Commission makes its report in pursuance of the reference, direct the Commission to submit to the Minister an interim report on its work under the reference.

Publication  
of reports.

15.(1) The Minister shall, as soon as practicable, but not later than twelve months, after receiving it, cause every report, submitted to him by the Commission to be tabled before the House of Representatives and its contents to be brought to the attention of the public.

(2) The Minister may, either upon tabling any report pursuant to the provisions of subsection (1), or on a subsequent occasion, as the case may be make a statement in the House of Representatives indicating what action the Government propose to take in respect of any of the recommendations of the Commission made in the report in question.

Referring  
matters  
back for  
re-  
consideration.

16. Where the Government determines that any recommendation made in any report submitted by the Commission is unsuitable for implementation on the ground solely, are several grounds which include the ground, that certain matters relevant to a reference, or to any matter examined by the Commission, or that

certain matters or situations, reasonably expected to be permanent, have arisen which the Commission did not have in contemplation or which affect considerably any or all of the recommendations of the Commission, that recommendation of the part or parts of the report of the Commission, in question shall be referred back by the Attorney-General to the Commission and any other officer under the Commission and the Commission or that other officer shall be required as soon as practicable, to make a supplementary report to the Minister on any matters referred back to it.

PART IV

THE STAFF OF THE COMMISSION

Public  
department  
and  
officers.

17. Subject to the provisions of this Act, the provisions of any law for the time being in force in relation to public department shall apply to the Commission, and the office of Commissioner, Secretary of the Commission and any other officer under the Commission shall be public officers in the service of Zanzibar.

The  
Secretary.

18.(1) The President shall appoint, on such terms as he may determine a public officer to be the Secretary of the Commission.

(2) A person may not be appointed to be Secretary of the Commission unless he -

- (a) holds a degree in law from a University recognised by the Government of Zanzibar, and has since graduation practised law, or has been engaged in teaching or research in law, for a period of not less than three years;
- (b) is a person who, in the opinion of the President is, by reason of his special qualifications, training or experience in the legal field, is capable to carry out the duties and functions of the Secretary.



(3) The Secretary of the Commission shall, subject to the provisions of this Act and to the direction of the Chairman, be the executive officer of the Commission and shall in that capacity, be responsible to the Commission for the day to day operations, and the management of the records of the Commission.

Staff of  
the  
Commission.

19.(1) Subject to the provisions of this section, the provisions of any law for the time being in force in relation to the constitution of offices in the Civil Service shall apply to the constitution of offices under the Commission, and the Principal Secretary shall on a recommendation by the Attorney-General, second or transfer persons holding office in the service of the United Republic or Zanzibar Government to offices under the Commission.

(2) The Commission may, subject to any directions give in that behalf by the Minister, and with the consent of the Principal Secretary, engage on temporary terms such persons who are experts in fields of learning relevant to any reference, or other matter for the time being under examination by the Commission as may be necessary or desirable for the exhaustive study of all aspects of the reference or matter in question.

(3) The terms and conditions of service of persons employed by the Commission on secondment or transfer pursuant to subsection (1) shall, subject to any general or specific directions given in that behalf by the President, be such as may be determined by the Principal Secretary, upon the recommendation of the Attorney-General.

(4) The Commission shall pay such allowances and other payments to persons engaged pursuant to subsection (1), and their conditions of service shall be such as may be determined by the Principal Secretary, after consultation with the Chairman, and specified in their instruments of appointment.

(5) Where a person is seconded or transferred to the service of the Commission under this section, his terms and conditions of employment with the Commission shall not be less favourable than those of his previous employment in the public service, and his service with the Commission shall be deemed to be continuous with his previous employment in the public service for the purposes of determining his entitlement to and quantum of pension, gratuity or other superannuation benefit.

(6) Where a person engaged as an expert by the Commission is the holder of another office in the public service, he shall not be required to perform the duties of his other office, but his service with the Commission shall not affect his tenure of that other office or his rank, title, precedence, salary or other entitlement as the holder of that other office.

(7) For the purposes of this section, "Principal Secretary" means the Principal Secretary to the Ministry whose responsibilities for the time being include matters relating to the recruitment and development of manpower for the public service.

#### PART V

#### MISCELLANEOUS PROVISIONS

Expenses of  
Commission.

20. All other expenditure payable or incurred under or in the administration of this Act shall be payable out of money to be appropriated by House of Representatives.

Salaries  
and  
allowances  
of  
Commissioners.

21.(1) There shall be paid to the Commissioners such salaries or remuneration as shall be determined by the President and those salaries and remuneration shall be charged on the Consolidated Fund.

14/....



(2) As soon as President determines the salaries and remuneration payable to Commissioners, the Minister shall by order published in the Gazette, specify the amount of salaries and remuneration payable in each calendar year to each Commissioner.

Meetings  
of the  
Commission.

22.(1) The Chairman shall convene such meetings of the Commission, and at such times and places, as may be necessary for the efficient conduct of its affairs.

(2) At any meeting of the Commission three Commissioners shall constitute a quorum.

(3) The Chairman shall preside at all meetings at which he is present or in the absence of the Chairman at any meeting, the Commissioners present shall elect one of their number who is a full-time Commissioner, any of the other Commissioners shall be elected to preside at that meeting.

(4) All questions arising at a meeting of the Commission shall as much as possible be decided by a consensus of the members present at the meeting. But in the event of absence of consensus the question in point shall be decided by a majority of the votes of the members present and voting; and in the event of an equality of vote, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(5) The Commission may regulate and conduct the proceedings at its meetings as it thinks fit, and the Secretary of the Commission shall keep and maintain a correct record of those proceedings.

(6) The validity of the exercise or performance of the functions or powers, and the proceedings of the Commission shall not be affected by reason only of there being a vacancy in the office of a Commissioner.

Annual  
Report.

23.(1) The Chairman shall, as soon as practicable after the thirtieth day of June in each year, cause to be submitted to the Controller and Auditor-General of the Zanzibar Government the accounts and financial records of the Commission, who shall then inspect and audit them and prepare a report on those accounts, in pursuance of the provisions of the Exchequer and Audit Ordinance.

(2) The Chairman shall, as soon as practicable after the thirtieth day of June in each year, cause to be prepared and submitted to the Minister a report in suitable form, containing -

- (a) a summary of the activities of the Commission during the year to which the report relates;
- (b) an outline of law reform references or matters currently under examination by the Commission;
- (c) a copy of the audited accounts of the Commission for the year to which the report relates;
- (d) a copy of the auditor's report on those accounts; and
- (e) such other information as the Minister may direct to be included in the report.

Records of  
Commission  
to be  
Public  
Record.

24. The records of the Commission shall be public record.

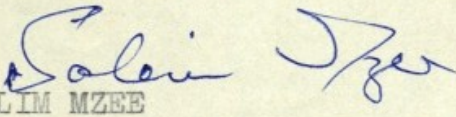
Regulations.

25.(1) The Minister may make Regulations prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed or provided for in order to facilitate or secure the effectual performance of the functions of the Commission, and to ensure the better carrying out or giving effect to the objects and purposes of this Act.



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

Passed in the House of Representatives on the 16th day of December, 1986.

A handwritten signature in blue ink, appearing to read "Salim Mzee". The signature is fluid and cursive, with a large initial 'S' and a long, sweeping tail.

SALIM MZEE

ACTING CLERK TO THE HOUSE  
OF REPRESENTATIVES.

MSWAADA WA SHERIA YA KUENZISHWA KAMISHENI YA  
KUCHUNGUZA SHERIA YA ZANZIBAR.

KIFUNGU:

SEHEMU YA KWANZA

1. Jina na tarehe ya kuanza kutumika.
2. Ufafanuzi.

SEHEMU YA PILI

3. Uanzishwaji wa Kamisheni
4. Kazi za Kamisheni
5. Wajumbe wa Kamisheni
6. Muda wa Kuendelea na Kazi ya Ujumbe.

SEHEMU YA TATU

7. Miongozo ya Waziri.
8. Mwanashetia Mkuu kuwasilisha mada kwenye Kamisheni.
9. Kamisheni kuanzisha shughuli zake wenyewe.
10. Kamisheni kuhusisha wananchi kwenye shughuli zake.
11. Uwezo wa jumla wa Kamisheni.
12. Kamisheni kutoingiliwa.
13. Masuala ya kuzingatiwa.
14. Uwasilishaji wa maazimio.
15. Utangazwaji wa ripoti.
16. Kuyarudisha masuala kwa kujadiliwa.

SEHEMU YA NINE

17. Idara ya Serikali na Ofisi.
18. Katibu.
19. Wafanyakazi wa Kamisheni.

SEHEMU YA TANO

20. Matumizi ya Kamisheni.
21. Mishahara na Marupurupu kwa Wajumbe.
22. Mikutano.
23. Ripoti ya mwaka.
24. Kumbukumbu za Kamisheni kuwa ni kumbukumbu za Serikali.



SHERIA NAMBA 16.....

NIMENUBALI

*Idris Abdul Sabir*

IDRIS ABDUL WAKIL  
RAIS WA ZANZIBAR  
NA MWENYEKITI WA  
BARAZA LA MAPINDUZI

9 Februari.....1987

MSWAADA WA SHERIA YA KUENZISHA KAMISHENI YA  
KUCHUNGUZA SHERIA YA ZANZIBAR.

IMETUNGWA na Baraza la Wawakilishi la Zanzibar.

SEHEMU YA KWANZA

Jina na  
tarehe ya  
kuanza  
kutumika.

1. Sheria hii itajulikana kuwa ni Sheria ya Kamisheni ya Kuchunguza Sheria ya Zanzibar, 1986 na itanza kutumika katika tarehe ambayo Waziri ataitangaza kwenye Gazeti Rasmi la Serikali.

Ufafanuzi.

2. Katika Sheria hii isipokuwa kama itaelezwavyenginevyo:

"Mwenyekiti" maana yake ni Mwenyekiti wa Kamisheni aliyeteuliwa chini ya kifungu cha 5;

"Kamisheni" maana yake ni Kamisheni ya Kuchunguza Sheria ya Zanzibar iliyoanzishwa chini ya kifungu cha 3;

"Mjumbe" maana yake ni aliyeteuliwa kuwa Mjumbe wa Kamisheni chini ya kifungu cha 5 na inajumuisha Mwenyekiti;

"Ofisi ya Jaji" maana yake ni Ofisi ya Jaji wa Mahakama ya Ruffaa ya Jamhuri ya Muungano au Ofisi ya Jaji wa Mahkama Kuu ya Zanzibar au ya Jamhuri ya Muungano;

"Waziri" maana yake ni Waziri anaeshughulikia mambo ya Sheria;

"Maagizo" (reference) maana yake ni maagizo kutoka kwa Mwanasheria Mkuu kwenda kwa Kamisheni chini ya Sheria hii.

SEHEMU YA PILI

KAMISHENI YA KUCHUNGUZA SHERIA  
ZA ZANZIBAR.

Uanzishwaji  
wa Kamisheni.

3. Inaanzishwa Kamisheni ambayo itajulikana kuwa ni Kamisheni ya Kuchunguza Sheria ya Zanzibar.

Kazi za  
Kamisheni.

4. (1) Kazi za Kamisheni zitakuwa ni kuzichunguza sheria zote za Zanzibar kwa madhumuni ya kuziendeleza na kuzirekebisha.

(2) Vile vile mbali na kuingilia yale yaliyoelezwa kwenye kifungu cha 4 (1), Kamisheni inaweza ama yenyewe au vyenginevyo-

(a) Kuchunguza sheria yoyote au sehemu yake na kupendekeza -

(i) kwamba sheria hiyo au sehemu yake irekebishwe kulingana na mazingira ya wakati huu ya Zanzibar;

(ii) kuondosha udhaifu au makosa mengine kwenye sheria hiyo, kufuta sheria ambazo hazifai tena au hazina umuhimu tena pamoja na kuziunganisha sheria zinazofanana.



- (iii) kuziandika vizuri sheria au sehemu ya sheria hizo.
  - (b) kufikiria na kushauri kuhusu mapendekezo ya kufuata mbinu mpya za kusimamia sheria na kutimiza haki;
  - (c) Kila haada ya kipindi fulani, kutayarisha na kupeleka Serikalini ratiba ya kuchunguza sheria mbali mbali kwa madhumuni ya kuzirekebisha, ikiwa ni pamoja na mapendekezo ya umuhimu kwa kamisheni au chombo chombo chengine kufanya uchunguzi huo kwa haraka;
  - (d) Baada ya kuombwa na Serikali, kutaarisha ratiba kamili ya kuzijumlisha (consolidation) na kuzipitia sheria, pamoja na kutayarisha miswaada chini ya ratiba hiyo ambayo imekubaliwa na Serikali;
  - (e) Baada ya kutakiwa na serikali, kutoa ushauri na msaada kwa Wizara, Idara, au chombo chochote cha Serikali kwa kuchunguza sehemu yoyote ya sheria kwa ajili ya kuweka mapendekezo ya kuirekebisha ili ilingane na mazingara ya wakati huu.
- (3) Kamisheni inaweza kwa madhumuni ya kufanya kazi zake vizuri, kuanzisha na kuendeleza utaratibu wa ushirikiano baina yake na mtu

au chombo chochote ndani au nje ya Zanzibar kinachojihusisha na kurekebisha Sheria, na kwa madhumuni hayo -

- (a) kuanzisha utaratibu wa kupata taarifa zozote zihusuzo mfumo wa sheria wa nchi nyengine ambazo Kamisheni inahisi zinaweza kusaidia katika utekelezaji wa shughuli zake;
- (b) kuchapisha au kusaidia uchapishaji katika Zanzibar, mambo yahasuyo urekebishaji wa sheria katika nchi nyengine;
- (c) kuitisha, au kusaidia kuitisha semina "workshops", mihadhara na mikutano mengine kwa madhumuni ya kujadili au kueneza taarifa zihusuzo urekebishaji wa Sheria Zanzibar.

Wajumbe wa Kamisheni.

5. (1) Kamisheni itakuwa na Mwenyekiti pamoja na Wajumbe wasiopungua wanne na wasiozidi sita ambao wote watateuliwa na Rais.

(2) Mtu hataweza kuteuliwa kuwa Mjumbe mpaka -

- (a) awe, au alikuwa, au ana sifa za kuteuliwa kushika wadhifa wa Jaji; au
- (b) awe ni mtu aliyeandikishwa kuwa ni Wakili hapa Zanzibar kwa muda au usiopungua miaka mitano;
- (c) awe ni mtu aliyehitimu digrii ya Sheria katika Chuo Kikuu ambacho digrii zake za Sheria zinatambuliwa na Serikali ya Zanzibar na ambaye



tokea ahitimu amepata uzoefu katika fani ya sheria kwa kipindi kisichopungua miaka mitano: au

- (d) awe ni mwalimu wa Sheria katika Chuo Kikuu au taasisi nyengine yenye hadhi kama hiyo kwa muda usiopungua miaka mitano; au
- (e) awe ni mtu ambaye kutokana na sifa maalum alizonazo, mafunzo au uzoefu katika mambo ya jamii, ya uchumi na ya kisiasa ya Zanzibar, Rais anahisi kuwa atakuwa na uwezo wa kuchangia katika shughuli za Kamisheni.

Muda wa Kuendelea na Kazi ya Ujumbe.

6. (1) Mwenyekiti atateuliwa kuwa ni Mjumbe wa muda wote (full-time) wa Kamisheni na, isipokuwa kama atajiuzulu au kuacha kuwa Mjumbe kutokana na sababu nyengine, atashika wadhifa huo kwa kipindi cha miaka mitano na anaweza kuteuliwa tena kwa kipindi chengine.

(2) Mjumbe ambaye si Mwenyekiti atateuliwa ama kuwa Mjumbe wa muda wote au wa muda fulani tu (part-time) na, isipokuwa kama atajiuzulu au kuacha kuwa Mjumbe kwa sababu nyengine, ataendelea na wadhifa wake kwa muda wa miaka mitatu na pia anaweza kuteuliwa tena kwa kipindi chengine.

(3) Uteuzi wa Wajumbe na uteuzi wao kwa kipindi chengine (re-appointment) utafanywa katika hali ambayo itahakikisha kuendelea vizuri kwa shughuli za Kamisheni.

(4) Mtu anaeshika wadhifa wa Jaji hataweza kuteuliwa kuwa mjumbe wa Kamisheni wakati wote (full-time) isipokuwa anaweza kuteuliwa kuwa Mwenyekiti.



(5) Iwapo mfanyakazi wa Serikali ambaye siye Jaji ameteuliwa kuwa Mjumbe wa wakati wote wa Kamisheni, basi atasita kuwa mfanyakazi wa kazi ile ya mwanzo lakini atahesabiwa kama kwamba anaendelea na kazi hiyo kwa madhumuni ya kuhesabu pencheni.

Malipo ya uzeeni pamoja na maslahi mengine. Na atakapomaliza muda wa uteuzi wake kwenye Kamisheni basi kwa masharti ya sheria inayotumika Mjumbe huyo atarudishwa kwenye Ofisi yake ya mwanzo iwapo Rais ataamua hivyo.

(6) Uteuzi wa Jaji kuwa Mjumbe wa Kamisheni hautaathiri muda wake wa kazi wa Ujaji, au wadhifa wake, cheo, hadhi, mshahara au marupurupu ya aina nyengine, au haki na fursa nyengine anazostahiki kupata akiwa Jaji, na kwa madhumuni yote kazi yake ya kuwa Mjumbe katika Kamisheni, iwapo kwa baadhi ya wakati au wakati wote itahesabiwa kuwa ni kazi ya Ujaji.

(7) Kwa masharti yaliomo kwenye Sheria hii, barua ya uteuzi ya kila Mjumbe itaeleza wazi kipindi na masharti ya uteuzi huo.

SEHEMU YA TATU

UTARATIBU NA UWEZO WA KAMISHENI

Miongozo  
ya Waziri.

7. Waziri, kila haada ya kipindi fulani, kwa kushauriana na Mwanasheria Mkuu, anaweza kutoa miongozo ya jumla au maalum kwa Kamisheni kuhusiana na utendaji wa kazi zake na Kamisheni italazimika kuitekeleza miongozo hiyo.

Mwanasheria  
Mkuu  
kuwasilisha  
mada kwenye  
Kamisheni.

8. (1) Chini ya miongozo yoyote iliyotolewa na Waziri, Mwanasheria Mkuu, kila baada ya wakati fulani anaweza kupeleka masuala kwa Kamisheni na Kamisheni, kwa kulingana na Sheria hii itayaangalia na baadae kuandika mapendekezo yake kuhusiana na masuala hayo kwa nia ya kurekebisha Sheria inayohusika.



(2) Mwanasheria Mkuu kulingana na maelezo kwenye kifungu cha 8(1) anaweza kuyapeleka masuala kuhusiana na Sheria maalum au sheria kwa ujumla mbele ya Kamisheni.

(3) Mwanasheria Mkuu anaweza -

(a) kurekebisha yale aliyoandika kuyapeleka kwa Kamisheni; au

(b) kutoa miongozo kwa Kamisheni kuhusu utaratibu wa kuyashughulikia masuala yaliopo mbele yake.

(4) Mwanasheria Mkuu hatapeleka mbele ya Kamisheni jambo lolote ambalo anajua kuwa ndio kiini cha kesi iliopo kwenye Mahkama Zanzibar au Mahkama ya Jamhuri ya Muungano ambapo Zanzibar ni mhusika, au jambo linalokusudiwa kupelekwa Mahkamani.

Kamisheni  
kuanzisha  
shughuli zake  
wenyewe.

9.(1) Kamisheni inaweza, baada ya kumuarifu Mwanasheria Mkuu, kuchunguza sheria yeyote bila ya kusubiri kuletewa sheria hiyo na Mwanasheria Mkuu.

(2) Ukiwacha uwezo iliyopewa Kamisheni na kifungu cha 9(1), Kamisheni haitachunguza sheria yeyote ambayo inaelwa kuwa ni kiini cha kesi ambayo ipo kwenye Mahkama ya Zanzibar au ya Jamhuri ambapo Zanzibar ni mhusika kwenye kesi hiyo.

Kamisheni  
kubusidha  
wananchi  
kwenye  
shughuli zake.

10.(1) Katika kufanya shughuli zake iwapo kwa uwezo wake wenyewe au baada ya kutakiwa na Mwanasheria Mkuu, Kamisheni itapanga shughuli zake katika hali ambayo itaiwezesha kuelimisha wananchi kuhusiana na masuala yanayohusika na kupata mawazo ya wananchi wengi kadri ya inavyowezekana.

(2) Ili kutimiza yale yaliyoelezwa kwenye kifungu cha 10(1), Kamisheni inaweza kufanya vitendo vyote ambavyo itaona ni muhimu katika kupata ushiriki-shwaji wa wananchi, na inaweza kufanya yafuatayo -



- (a) Kuitisha semina kwa madhumuni ya kujadili mambo yawahusuyo wananchi,;
- (b) kupanga miadara itakayohutubiwa na Kamisheni;
- (c) kuitisha na kuendeleza majadiliano ya wananchi katika mikutano iliyoitishwa na, au kwa madhumuni ya Kamisheni;
- (d) kuanzisha na kuchapisha toleo (bulletin), gazeti au maandishi mengine kwa madhumuni ya kueneza taarifa zihusuzo uchunguzi wa sheria.
- (e) kufanya jambo lolote ambalo kwa mawazo ya Kamisheni ni muhimu kwa madhumuni ya kueneza mapendekezo ya uchunguzi wake wa awali ili kupata mwamko na mwikio kutoka kwa wananchi.

Uwezo wa jumla wa Kamisheni.

11. (1) Kamisheni inaweza kuunda kamati kwa madhumuni ya kushughulikia jambo au mambo yoyote yaliyopelekwa au yanayokusudiwa kupelekwa mbele ya Kamisheni na Mwanasheria Mkuu.

- (2) Kwa madhumuni ya kushughulikia jambo lolote maalum lililopelekwa mbele yake, Kamisheni inaweza kuchukua idadi ya watu ili kuisaidia kukusanya na kutaarisha mambo itakayoyaona ni muhimu.
- (3) Kamisheni inaweza kumwita mtu yeyote ili atoe maelezo mbele ya Kamisheni.
- (4) Waziri anaweza mara kwa mara kuweka kanuni kuhusiana na -
  - (a) utaratibu wa kufuatwa na Kamisheni wakati wa kuchukua watu ili kusaidia, pamoja na muda na masharti ya kazi wa hao watu waliochukuliwa;



- (b) utaratibu wa kuwasilisha mbele ya Kamisheni mapendekezo yoyote kuhusiana na uchunguzi wa sheria;
- (c) utaratibu ambapo mapendekezo ya uchunguzi (zaidi ya yale yatokayo kwa Mwanasheria Mkuu) yanavyoweza kuwasilishwa kwa Mwanasheria Mkuu;
- (d) utaratibu wa kufuatwa katika kuyashughulikia mapendekezo ya kuchunguza Sheria yaliyopelekwa kwa Kamisheni toka kwa mwananchi na ambayo hayana uhusiano na maagizo kutoka kwa Mwanasheria Mkuu au jambo lolote ambalo lipo mbele ya Kamisheni.

Kamisheni kutoingiliwa.

12. Kulingana na maelezo ya sheria hii, Kamisheni, katika utendaji wa kazi zake, itakuwa huru kabisa katika kujadili, kutoa maoni na mapendekezo yake.

Masuala ya kuzingatwa.

13. (1) Bila ya kuathiri uhuru iliyopewa chini ya kifungu cha 12, Kamisheni itazingatia haja ya kuwepo katika Zanzibar Sheria ambazo zinakubaliana na ambazo zinasaidia katika utekelezaji wa siasa ya Ujamaa na Kujitegemea.

(2) Kamisheni itafikiria na kutoa mapendekezo ya kuchunguza sheria kwa nia ya kuhakikisha kwamba sheria za Zanzibar zinatungwa ili -

- (a) kuendeleza na kueneza misingi ya usawa wa binaadamu na uhuru kama ilivyoelezwa kwenye Katiba ya Chama cha Mapinduzi na Katiba ya Zanzibar.

- (b) kuendeleza na kuzirekebisha sheria za Zanzibar ili ziwane na mila, Utamaduni na imani ya watu wa Zanzibar ambazo zinafaa kutumika kwa pamoja na mitizamo ya **Kisasa** ya sheria;
- (c) kuendeleza hamu na kuhakikisha kufuatwa kwa misingi ya sheria (rule of law) kwa kupinga maamuzi yasiyo ya haki, matumizi mabaya ya Cheo na urasimu.
- (d) kuhakikisha kuendelea kwa utaratibu wa kutoa haki sawa mbele ya vyombo vya sheria pamoja na kulinda mali za jumuiya na za watu binafsi.
- (e) kusimamia na kuendeleza heshima kwa haki za binadamu katika utekelezaji wa kazi za kiserikali na za kibinafsi.

Uwasilishaji  
wa maazimio.

14. (1) Kwa mujibu wa kifungu cha 14(2), pale Kamisheni inapofikia uamuzi fulani kuhusiana na mada yoyote iliyokuwa ikijadili, itaandika ripoti itayokuwa na mapendekezo ambayo itayaona yanafaa na kuipeleka ripoti hiyo kwa Waziri.

(2) Pale Mwanasheria Mkuu anapopeleka maagizo kwa Kamisheni -

- (a) Kamisheni inaweza katika kipindi chochote kabla haijaandika ripoti yake ya mwisho kufuatana na agizo hilo, kupeleka ripoti ya awali (interim report) kwa Waziri kuhusiana na mada hiyo; na
- (b) Mwanasheria Mkuu anaweza, katika wakati wowote kabla Kamisheni haijapeleka



ripoti yake kwa mujibu wa maagizo, kuelekeza Kamisheni kupeleka ripoti ya awali kwa Waziri.

Utangazwaji wa ripoti.

15. (1) Waziri atalazimika haraka iwezekanavyo, na kabla haijapata miezi kumi na mbili tokea kupata ripoti kutoka kwa Kamisheni, kuiwasilisha ripoti hiyo mbele ya Baraza la Wawakilishi, na yaliomo kutangazwa kwa wananchi.

(2) Waziri anaweza, ama baada ya kuwasilisha ripoti hiyo kama ilivyoelezwa kwenye kifungu cha 15(1) au katika shughuli nyengine, kutoa maelezo kwenye Baraza la Wawakilishi akionesha ni hatia gani Serikali imekusudia kuchukua kuhusiana na mapendekezo hayo yaliomo kwenye ripoti.

Kuyarudisha masuala kwa kujadiliwa.

16. Pale Serikali inapoona kwamba mapendekezo fulani yaliyotolewa na Kamisheni kwenye ripoti yake yaiyumkiniki kutekelezwa kutokana na sababu fulani au kutokana na kwamba mambo muhimu ambayo Kamisheni iliwajibika kuyazingatia katika ripoti yake, imeacha kufanya hivyo au mambo fulani yanayokadiriwa kuwa yatadumu yametokea wakati ambapo Kamisheni wala haikujua au kuwa na sababu ya kujua na kwamba mambo hayo yameathiri sana yale mapendekezo yaliyoandikwa kwenye ripoti ya Kamisheni, basi wanasheria Mkuu atayarudisha tena mapendekezo hayo au sehemu yake kwa Kamisheni au Ofisi ambayo ipo chini ya Kamisheni na Kamisheni au Ofisi hiyo itatakiwa kwa haraka iwezekanavyo ipeleke ripoti ya ziada (supplementary report) kwa Waziri.

SEHEMU YA NNE

WAFANYAKAZI WA KAMISHENI

Idara ya Serikali na Ofisi.

17. Maelezo ya sheria hii na kwa maelezo ya sheria yoyote nyengine inayotumika kuhusiana na Idara za Serikali

yatatumika kwa Kamisheni, na Ofisi ya Mjumbe (Kamishna), Ofisi ya Katibu na Ofisi yoyote chini ya Kamisheni zitahesabiwa kuwa ni Ofisi za Serikali ya Zanzibar.

Katibu.

18. (1) Rais atamteua mfanyakazi wa Serikali kuwa Katibu wa Kamisheni.

(2) Mtu hataweza kuteuliwa kuwa Katibu mpaka awe -

(a) anayo digrii ya sheria kutoka Chuo Kikuu kinachotambuliwa na Serikali ya Zanzibar, na ambaye tokea ahitimu amekuwa akisomesha au akifanya utafiti wa sheria kwa kipindi kisichopungua miaka mitatu; au

(b) ni mtu ambaye kutokana na sababu za kuwa na sifa fulani maalum, mafunzo au uzoefu katika fani ya sheria, Rais atamwona anafaa kuwa Katibu wa Kamisheni.

(3) Katibu wa Kamisheni, kutokana na maelezo ya Sheria hii pamoja na mwongozo wa Mwenyekiti, atakuwa ndiye mtendaji Mkuu wa Kamisheni na kwa uwezo huo atakuwa ndiye mwajibikaji mkubwa katika mambo ya utawala, uwekaji wa kumbukumbu na shughuli za kila siku za Kamisheni.

Wafanyakazi wa Kamisheni.

19. (1) Maelezo ya kifungu hiki na maelezo ya sheria nyengine yoyote inayotumika kuhusiana na wafanyakazi wa Serikali yatatumika **kuhusiana na** Wafanyakazi wa Kamisheni na Katibu Mkuu, baada ya kupata mapendekezo kutoka kwa Mwanasheria Mkuu, atamhamisha mfanyakazi yoyote wa Serikali ya Muungano au Serikali ya Zanzibar na kumpeleka kufanyakazi kwenye Kamisheni.

(2) Kamisheni, baada ya kupata miongozo kutoka kwa Waziri na kwa idhini ya Katibu Mkuu, inaweza kuajiri kwa muda wataalamu wa fani maalum ambayo Kamisheni inaifanyia uchunguzi au wataalam wa fani nyengine ambayo



Kamisheni inaona ni muhimu kupata wataalam hao ili kufanya utafiti wa ndani kabisa.

(3) Masharti ya utumishi ya mfanyakazi aliyeazimwa (seconded) au aliyehamishiwa (transfer) kwenye Kamisheni chini ya kifungu cha 19(1) yatakuwa (kwa mujibu wa maelekezo maalum ya Rais) kama yatakavyoamuliwa na Katibu Mkuu baada ya kupokea mapendekezo ya Mwanasheria Mkuu.

(4) Kamisheni italipa marupurupu na malipo mengine kwa wafanyakazi walioajiriwa chini ya kifungu 19(1) na masharti yao ya uajiri yatakuwa kama yatakavyoamuliwa na Katibu Mkuu baada ya kushauriana na Mwenyekiti na kwa mujibu wa maelezo katika barua zao za uajiri.

(5) Pale mtu anapoazimwa au anapohamishiwa kwenye Kamisheni chini ya kifungu hiki basi masharti yake ya uajiri hayatomnyima haki yoyote ambayo alikuwa akiipata kabla ya kuchukuliwa kwenye Kamisheni, na uajiri wake kwenye Kamisheni utahesabiwa kuwa ni maendeleo ya uajiri wake ule ule wa mwanzo kwa madhumuni ya malipo ya pencheni, malipo ya uzeeni au maslahi mengine yoyote.

(6) Iwapo mtu anaeajiriwa na Kamisheni kuwa ni mtaalam anafanya kazi ya serikali, basi hatotakiwa kufanya kazi hiyo nyengine, lakini utumishi wake katika Kamisheni hautathiri muda wake wa kazi katika Ofisi yake ya mwanzo, wadhifa, mshahara au maslahi yake mengine.

(7) Kwa madhumuni ya kifungu hiki, "Katibu Mkuu" maana yake ni Katibu Mkuu wa ile Wizara ambayo kwa wakati huu ndio inayoshughulikia masuala ya uajiri na maendeleo ya Watumishi Serikalini.



SEHEMU YA TANO

MENGINEYO

Matumizi ya Kamisheni.

20. Matumizi yote yatakayotumika chini ya sheria hii yatatoka katika kifungu kitakachotengwa na Baraza la Wawakilishi.

Mishahara na Marupuru kwa Wajumbe.

21.(1) Wajumbe wa Kamisheni watalipwa mishahara na malipo kama itakavyoamuliwa na Rais na malipo hayo yatatoka kwenye Mfuko Maalum.

(2) Mara Rais atakapoamua kuhusu mishahara na marupuru mengine ya Wajumbe, Waziri, kwa kutoa Tangazo kwenye Gazeti Rasmi ataainisha viwango na marupuru watakayolipwa Wajumbe kwa kila mwaka.

Mikutano.

22.(1) Mwenyekiti ataitisha mikutano ya Kamisheni katika tarehe na mwahala ambamo atahisi ni vizuri kwa shughuli hizo.

(2) Katika Mikutano wowote wa Kamisheni idadi ya Wajumbe watatu watatosha kuunda kikao kamili (Quorum).

(3) Masuala yote yatakayozuka kwenye mikutano ya Kamisheni yataamuliwa kwa makubaliano ya wote iwapo hakuna makubaliano ya wote basi uamuzi utafikiwa kwa kura za Wajumbe waliohudhuria na kupiga kura na ikiwa kura za kukubali na kukataa ni sawa basi Mwenyekiti wa kikao hicho atakuwa na kura ya ziada (casting vote).

(4) Kamisheni itapanga utaratibu wa kuendesha mikutano yake kadiri itavyoona inafaa na Katibu wa Kamisheni atawajibika kuweka na kuzitunza kumbukumbu zote za mikutano.



(5) Kubadilika kwa shughuli au utekelezaji wa uwezo wowote wa Kamisheni haitoathirika na sababu tu kwamba kuna nafasi tupu (vacancy) ya Mjumbe.

Ripoti ya mwaka.

23.(1) Kwa haraka iwezekanavyo, kila baada ya tarehe thalathini Juni ya kila mwaka, Mwenyekiti atawajibika kupeleka kwa Mdhibiti na Mkaguzi Mkuu wa Hesabu wa Zanzibar akaunti na rekodi za fedha (financial records) za Kamisheni.

(2) Mwenyekiti, kwa haraka iwezekanavyo, kila baada ya tarehe thalathini Juni ya kila mwaka, atapeleka ripoti kwa Waziri ambayo itakuwa na mambo yafuatayo:-

- (a) Muhtasari wa shughuli za Kamisheni kwa mwaka huo,
- (b) ratiba ya maagizo ya kurekebisha sheria au mada ambayo zimo kushughulikiwa na Kamisheni;
- (c) nakla ya akaunti iliyopitiwa na Mdhibiti na Mkaguzi Mkuu wa Hesabu kuhusiana na mwaka huo;
- (d) nakla ya Mkaguzi Mkuu kuhusiana na akaunti hiyo ya Kamisheni;
- (e) na maelezo mengine yoyote ambayo Waziri ataamuru yawemo kwenye ripoti.

Kumbukumbu za Kamisheni kuwa ni kumbukumbu za Serikali.

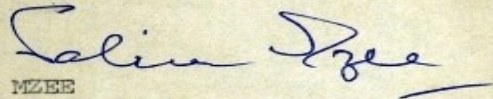
24. Kumbukumbu za Kamisheni zitahesabiwa kuwa ni kumbukumbu za Serikali.

25.(1) Waziri anaweza kutunga kanuni zitakazoeleza mambo yote muhimu yanayotakiwa kwa madhumuni ya kuharakisha au kupata utendaji kazi mzuri wa Kamisheni, pamoja na

kuhakikisha utekelezaji wa majukumu kwa mujibu wa sheria hii.

(2) Kanuni zitakazotungwa chini ya sheria hii zitachapishwa kwenye Gazeti Rasmi la Serikali.

Imepitishwa na Baraza la Wawakilishi tarehe .....  
1986.



SALIM MZEE  
KAIMU KATIBU WA  
BARAZA LA WAWAKILISHI  
ZANZIBAR