



THE WRITTEN LAWS (MISCELLANEOUS AMENDMENT)  
ACT, 1995.

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ACT NO. 5 OF 1995

I ASSENT

*Salim Amour*  
DR. SALMIN AMOUR

PRESIDENT OF ZANZIBAR

AND

CHAIRMAN OF THE REVOLUTIONARY  
COUNCIL.

*15th May*  
.....1995.

AN ACT TO AMEND AND MAKE BETTER  
PROVISIONS FOR VARIOUS WRITTEN LAWS.

ENACTED by the House of Representatives of  
Zanzibar.

PART I

PRELIMINARY PROVISIONS.

Short title  
and  
commencement.

1.(1) This Act may be cited as Written Laws  
(Miscellaneous Amendment) Act of 1995 and shall be read  
together with the Laws amended herein.

(2) This Act shall come into operation upon  
being assented to by the President.

Amendments.

2. The Laws specified in the provisions  
hereinbelow are amended in the manner and to the extent  
so prescribed.

PART II

AMENDMENT OF ELECTION ACT.

Amendment of  
Election  
Act.

3. The Election Act, No. **II** of 1984 hereinafter  
referred to as the principal Act is amended as provided  
in the provisions hereunder provided.



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Amendment of  
Section 2.

4. Section 2 of the principal Act is hereby amended -

(a) by adding the following word at the end of the definition of the word "election day" "or in the case of election for the House of Representatives in which un-opposed Candidate is declared elected under section 40."

(b) by deleting the words "Parliamentary election" and substituting for them the words "House of Representatives election".

Repeal and  
Replacement  
of Section 4.

5. Section 4 of the principal Act is hereby repealed and replaced by the following:-

"The Zanzibar  
Electoral  
Commission.

4.(1) The Zanzibar Electoral Commission shall subject to the constitution and to this Act, consist of the following members:-

- (a) a Chairman who shall be a person qualified to be appointed as such as the President considers necessary;
- (b) a Vice-chairman who shall be elected by the members from among themselves;
- (c) six other members who are persons possessing either adequate experience in the conduct or supervision of House of Representatives and or Parliamentary election or such other qualifications as the President considers necessary for or prerequisite to the effective discharge of the role of the Commission; Provided that at least one of the members shall be a Lawyer.

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

(3) The Director of Elections shall be the secretary to the Commission and he shall be the chief Executive of the Commission."

Amendment of  
the Principal  
Act.

6. The principal Act is hereby amended by adding a new section 4A immediately after section 4 as follows:

"Responsibility  
of the Commission."

4A. The Commission shall be responsible for the over-all supervision of the general conduct of all Presidential, members of House of Representatives and Local Authorities elections in Zanzibar."

Amendment of  
section 13.

7. Section 13 of the Principal Act is hereby amended by adding the following subsections (5), (6) and (7) immediately after subsection (4).

"(5) No person shall be registered as a voter if he is not ordinarily resident in that particular constituency.

(6) For the purposes of this section the phrase "ordinarily resident" appeared in subsection (5) shall have the following meaning:-

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- (i) a person shall be deemed to be ordinarily resident in a particular constituency if -
  - (a) he has a permanent abode in that constituency; or
  - (b) he is living in that constituency under or by reason of service qualification; or
  - (c) in any case he has been living in that constituency for consecutive five years preceeding the registration for an election.
- (ii) A person shall be deemed to have permanent abode if an accommodation is available for him for the past consecutive five years and he actually uses such accommodation as a place from where he works for gain. A person having more than one wife shall be at liberty to treat one permanent abode of any of his wives to be his permanent abode.
- (iii) A person shall be deemed to have service qualification if:-
  - (a) he is a student registered for full time course exceeding twelve months in any training institution recognised and declared by the commission; or
  - (b) he is in the millitary service and has been transferred in the course of his employment, including Police force and service in the Special Departments; or

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- (c) he is in the government or international organization service and has been transferred in the course of his employment.

Provided, and for avoidance of doubt, it is hereby expressly provided that -

- (i) a person who, for the purpose of his residential qualifications, is not qualified for registration in his current constituency at the time of registration, may return to and register in his previous constituency and shall be entitled to be registered in that constituency notwithstanding any provisions contained in this section; or
- (ii) a person who, for the purpose of his residential qualifications, is not qualified for registration in his current constituency at the time of election and he cannot return to his previous constituency, he may register in his current constituency for the presidential elections only;
- (iii) the burden of proof that a person is not ordinarily resident in a particular constituency shall lie on the complainant, save that this section does not remove the burden of a person who wants to be registered to prove before the Registration Officer that he is ordinarily resident in that constituency.

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(7) The Commission may from time to time by order, direct and clarify on any matter relating to residence not expressly provided under this section.

Amendment of section 17.

8. Section 17 of the principal Act is hereby amended by:-

- (i) deleting subsection (2) thereof; and
- (ii) renumbering subsections (3), (4) and (5) to be subsection (2), (3) and (4) respectively.

Amendment of section 19.

9. Section 19 of the principal Act is hereby amended in subsection (3)(c) by adding the following words "..... or part of a polling district of another constituency or of the same constituency" between the words "becomes a polling district and ,..... with a name".

Amendment of the principal Act.

10. The principal Act is hereby amended in sections 27, 28 and 30 by deleting the words "by the sum of ten shillings as deposit" appeared in subsections (2), (5) and (1) of those sections respectively and substituting for them the words "by a deposit of such sum as Commission may, by notice in the Gazette prescribe".

Amendment of section 34.

11. Section 34 of the principal Act is hereby amended by deleting the words "before noon" appeared in subsection (1) thereof and substituting for them the words "before 4 o'clock".

Amendment of section 39D.

12. Section 39D of the principal Act is hereby amended by adding new subsection (4) immediately after subsection (3) as follows:-

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"(4) A Presidential candidate shall be declared to have been elected President only if more than fifty percent of the total valid votes cast are in his favour".

Amendment of section 39E.

13. Section 39E of the principal Act is hereby amended by adding a new subsection (5) immediately after subsection (4) as follows:-

"(5) Notwithstanding the provisions of section 39D (4) at the second ballot, a Presidential candidate shall be declared to have been elected President if more than fifty percent of the total valid votes cast are in his favour".

Amendment of section 41.

14. The principal Act is hereby amended by rewriting section 41 as follows:-

"Nomination day. 41(1) Where a House of Representatives Elections is to be held in a constituency or where such election is counter-manded and the election procedures are to commence afresh, the Commission shall, by notice published in the Gazette, appoint a day (hereinafter in this part referred to as the nomination day) for the nomination of candidates for the election.

Provided that:-

- (a) Where a general election is to be held, the nomination day for any Constituency shall be not less than five nor more than twenty-five days after the dissolution of House of Representatives.

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(b) Where a by-election is to be held, the nomination day shall be not less than twenty nor more than fifty days after the occurrence of the event upon which the by-election is to take place.

(2) The Commission may appoint different nomination days for different constituencies, and may revoke the appointment of a nomination day and appoint some later day as nomination day.

Provided that any such later day appointed for nomination day for a House of Representatives election shall be within the period provided for under the provide to sub-section (1).

(3) The Commission shall give at least seven days notice of nomination day and in the case of a House of Representatives general election, where the President has given notice of his intention to dissolve the House of Representatives, the notice of nomination day may be given before such dissolution".

Amendment of section 43.

15. Section 43 of the principal Act is hereby amended in paragraph (d) of subsection (1) by rewriting that paragraph as follows:

"(d) the full names, addresses, occupations, symbol of the party and photograph of the candidate".

Amendment of section 44.

16. Section 44 of the principal Act is hereby amended by adding immediately after the last word of section 44 the following words:

"but any party may, notwithstanding any provision or requirement in this Act, field any person to be a candidate in any constituency and such person may register and vote at such constituency".



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Amendment of  
section 53.

17. Section 53 of the principal Act is hereby amended by adding a new subsection (4) immediately after subsection (3) as follows:

"(4) The Presiding Officer shall with the assistance and cooperation of the polling agent solve or deal otherwise with each complaint in his polling station as soon as it arises and is brought to his attention by a candidate, a polling agent, a voter or other person registered and entitled to vote at the polling station concerned".

Amendment of  
section 66.

18. Section 66 of the principal Act is hereby amended:-

(a) by adding new subsections (1), (2) and (4) as follows:

"(1) without prejudice to the provisions of section 43(4) and 90 each polling agent shall be present at the opening of the voting at the polling station in respect of which he is appointed polling agent; provided that absence of the polling agent shall not invalidate the votes.

(2) Before the commencement of the voting at a polling station the polling agent shall be required by the Presiding Officers to submit to him in the prescribed manner any complaint that he has or has received, or any expression of his satisfaction with regard to the arrangements for voting in the polling station.

(4) If any voter has any complaint in relation to the conduct of the voting in the polling station or district in which he is registered he may, before or immediately after voting but before leaving the polling station, submit his complaint in the prescribed form to the Presiding officer or a polling assistant, if the complaint concerns the conduct of the Presiding Officer it shall be recorded in the presence of the polling agent".



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(b) by adding new paragraph in subsection (3) immediately after paragraph (K) as follows:

- "(L)(i) If a voter makes an application to the presiding officer to be allowed on the ground of disability to vote with the assistance of another person by whom he is accompanied (hereinafter referred to as the "companion"), the presiding officer shall require the voter to declare orally whether he is so incapacitated by his disability as to be unable to vote without assistance.
- (ii) If the presiding officer -
- (a) is satisfied that the voter is so incapacitated, and
- (b) is also satisfied by a written declaration made by the companion (in this provision referred to as "the declaration made by the companion of a disable voter") that the companion is a qualified person within the meaning of this provision; and has not previously assisted more than one disabled person to vote at the election, the presiding officer shall grant the application, and then anything which is by this provision required to be done to or by that voter in connection with the giving of his vote may be done to, or with the assistance of, the companion.

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- (iii) For the purpose of this provision, a person shall be qualified to assist a disabled voter to vote, if that person is either -
  - (a) a person who is entitled to vote as an elector at the election; or
  - (b) the father, mother, brother, sister, husband, wife, son or daughter of the disabled voter and has attained the age of 18 years.
- (iv) The name and number in the register of electors of every voter whose vote is given in accordance with this provision and the name and address of companion shall be entered on a list (in this provision referred to as "the list of disabled voters assisted by companions").
  - (v) The declaration made by the companion -
    - (a) shall be in the form in the Appendix.
    - (b) shall be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and shall forthwith be given to the presiding officer who shall attest and retain it.
  - (vi) No fee or other payment shall be charged in respect of the declaration.

Amendment of  
section 65.

19. Section 65 of the principal Act is hereby amended:-

(a) by adding new subsections (1) and (2) as follows:-

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"(1) Before the closing of the polling station after the closing of the poll, the polling agent shall be given the final opportunity to submit in the prescribed form whether or not and what complaint he has in relation to the manner the voting was conducted in the polling station, and any complaint reported shall be solved or dealt with otherwise in the best possible manner.

(2) At the conclusion of the polling, the presiding officer shall prepare a report, detailing all complaint raised during and after the close of the poll and the steps taken in respect of each of them. The report shall then be read before and be confirmed and signed by the polling agent, the presiding officer and a polling assistant, and shall be submitted to the Returning officer in accordance with subsection (3) of this section".

(b) by renumbering subsection (1), (2), (3) and (4) to be subsection (3), (4), (5) and (6).

(c) by adding new paragraphs (f) and (g) in subsection (3) as follows:

"(f) the keys for the locks to the ballot boxes used at the polling station;

(g) the report prepared under subsection (2)".

Amendment of section 67.

20. Section 67 of the principal Act is hereby amended:-

(a) by adding new subsections (1), (2) and (3) as follows:-

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"(1) The Returning Officer or Assistant Returning Officer, as the case may be, shall, before embarking upon the procedure for counting votes brief the candidates of any important occurrences reported to him from polling stations, and then require each candidate to submit in the prescribed manner and before the other candidate and the counting agents of both candidates, whether or not and what complaint he has, other than that contained in the report aforesaid, in relation to the conduct of the voting in the constituency.

(2) Any complaint submitted under subsection (1) shall be settled or dealt with otherwise, and the Returning Officer or, as the case may be, Assistant Returning Officer shall make out a report, in the prescribed form concerning this stage of the proceedings in the elections which shall then be read out to, confirmed and signed by both candidates their respective counting agents and the Returning Officer or Assistant Returning Officer, as the case may be.

(3) At the conclusion of every stage in the process of counting votes the candidate if present or their counting agents shall be required to state in the prescribed form whether or not and what complaint they have, or their satisfaction, in relation to each such stage concluded each complaint raised shall be settled or otherwise decided at that stage, and the Returning Officer shall then prepare an account in the prescribed form detailing the situation at that stage, which shall be confirmed and signed by the Returning Officer and later submitted to the commission".

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- (b) by renumbering subsection (1) and (2) to be subsection (4) and (5) respectively.

Amendment of section 76.

21. Section 76 of the principal Act is hereby amended by adding a new subsection (4) immediately after subsection (3) as follows:

(4) At the conclusion of the counting of the vote each candidate or his counting agent shall, in the prescribed form, state whether or not and what complaint he has in relation to the counting of the votes all complaints submitted at this stage shall be settled or dealt with otherwise, and shall then each be incorporated in the report of the Returning Officer to be submitted to the Commission under section 77 which shall be confirmed and signed by the candidates or their counting agents and the Returning Officer.

Amendment of section 77.

22. Section 77 of the principal Act is hereby amended by deleting paragraph (c) and replacing it for the following:-

- "(c) compile the report and submit it to the Commission indicating -
- (i) the complaints arises at each stage of the election and the measure or decision taken in respect of each;
  - (ii) the view of the candidate in relation to the election;
  - (iii) the result of the election, and the Commission shall then cause the results, together with the number of votes recorded for each candidate in each constituency to be published in the Gazette.

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Amendment of  
section 93.

23. Section 93 of the principal Act is hereby amended in subsection (1) by adding new paragraphs (g), (h) and (i) immediately after paragraph (f) as follows:

- (g) knowingly nominates more than one Presidential candidate;
- (h) being a Returning Officer or Presiding Officer knowingly or negligently fails to put a correct authentication mark on a ballot paper;
- (i) being a Returning Officer or Presiding Officer knowingly or negligently authorize the use of a tendered ballot paper in the manner which contravenes the provisions of this Act.

Repeal of  
section 111A.

24. Section 111A of the principal Act is hereby repealed.

Amendment of  
section 113.

25. Section 113 of the principal Act is hereby amended by adding a new subsection (4) immediately after subsection (3) as follows:-

(4) At the hearing of an election petition the court shall have power to compel the attendance of any person as a witness who appears to it to have been concerned or involved in the election in question or whose evidence may assist the court to reach a just and fare decision in the matter before it.

Amendment of  
the principal  
Act.

26. The principal Act is hereby amended -  
(a) by adding a new section 116 as follows:-



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"Certificate of a court as to validity of election.

116. At the conclusion of the trial of an election petition the court shall determine whether the member whose nomination or elections is complained of or any other and which person, was duly nominated or elected or whether the election was void, and shall certify such determination to the Director. Upon such certificate being given, such determination shall be final and the election shall be confirmed or a new election shall be held, as the case may require, in accordance with such certificate.

(b) by renumbering from section 116 up to the end to be section 117 and change accordingly.

Amendment of section 117.

27. Section 117 of the principal Act is hereby amended:-

(a) by adding a new subsection (4) as follows:-

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

(b) by renumbering subsections (4), (5) and (6) to be subsections (5), (6) and (7) respectively.

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PART III  
AMENDMENT OF CRIMINAL  
PROCEDURE DECREE.

Amendment of  
Criminal  
Procedure  
Cap. 14.

28. The Criminal Procedure Decree is amended by deleting the whole Part VII thereof, containing sections 187 to 218 (both inclusive) and substituting therefor the following new Part VII.

"PART VII

Provisions Relating to Committal  
of Accused Person for Trial

- (a) Committal of Accused Persons by subordinate Courts to the High Court for Trial .

Power to  
commit for  
trial.

187. Any magistrate may, unless precluded from so doing by the terms of his appointment, commit any person for trial to the High Court.

Committal  
proceedings  
to be held.

188. Whenever any charge has been brought against any person of an offence not triable by a subordinate court or as to which the court is advised by the Attorney General in writing or otherwise that it is not suitable to be disposed of upon summary trial committal proceedings shall be held according to the provisions hereinafter contained by a subordinate court of competent jurisdiction.

Accused  
person to be  
sent before  
magistrate  
court.

189. After a person is arrested, or upon the completion of investigations and the arrest of any person or persons, in respect of the commission of an offence triable by High Court, the person arrested shall be brought within the period prescribed under this Decree before a subordinate court of competent jurisdiction within whose local limits the arrest was made; together with the charge upon which it is proposed to prosecute him, for him to be dealt with according to law.

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Charge to  
read over  
to accused.

190.(1) Whenever a person is brought before or subordinate court pursuant to section 189, the magistrate concerned shall readover and explain to the accused person the charge or charges set out in the charge sheet in respect of which it is proposed to prosecute the accused, but the accused person shall not be required to plead or make any reply to the charge.

(2) After having read and explained to the accused the charge or charges the magistrate shall address to him the following words or words to the like effect:

"This is not your trial. If it is so decided, you will be tried later in the High Court, and the evidence against you will then be adduced. You will then be able to make your defence and call witnesses on your behalf".

191. After a person is committed to remand Education Centre or on bail by a subordinate court or after the investigations have been completed but before the suspect is arrested, the police officer, or other public officer incharge of the relevant investigations under this Decree, shall forthwith cause the statements in quintuplicate of persons intended to be called as witnesses at the trial to be properly typed out, conveniently compiled and sent, along with the police case file, to the Attorney General or any other public officer designated by him in that behalf.

Attorney  
General to  
enter malle  
or order  
investi-  
gation.

192.(1) If the Attorney-General or that other public officer, after studying the police case file and the statements of the intended witnesses, is of the view that the evidence available is in sufficient to warrant mounting a prosecution, or it is otherwise inadvisable to

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prosecute, he shall, where the accused has already been charged, immediately enter nolle prosequi; unless he has reason to believe that further investigations can change the position, in which case he shall cause further investigation to be carried out.

(2) If the Attorney General or that other public officer, after studying the police case file and the statement of the intended witnesses, decides that the evidence available, or the case as such, warrants putting the suspect on trial, he shall draw up or cause to be drawn up an information in accordance with law, and when signed by him, submit it, together with three copies of each of the statements of witnesses sent to him under section 191, including any document containing the substance of the evidence of any witness who has not made a written statement.

(3) After an information is filed in the High Court the Registrar shall cause a copy of it to be delivered to the district court where the accused was first presented or within the local limits of which the accused resides.

Subordinate court to summon the accused.

193.(1) Upon receipt of the copy of the information and the notice the subordinate court shall summon the accused person from remand Education Centre or, if not yet arrested, order his arrest and appearance before to deliver to him, or to his counsel a copy of the information and notice of trial delivered to it under section 192 and commit him for trial by the court; and the committal order shall be sufficient authority for the person incharge of the remand Education Centre concerned to remove the accused person from Education Centre on the specified date and to facilitate his appearance before the court.



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(2) Upon appearance of the accused person before it, the subordinate court shall read and explain or cause to be read and explained to the accused person the information brought against him as well as the statements or documents containing the substance of the evidence of witnesses whom he intends to call at the trial.

Subordinate  
court to  
direct the  
accused.

194.(1) After complying with the provision of the foregoing sections the court shall address to the accused person the following word or words to the like effect.

"You have now heard the substance of the evidence that the prosecution intends to call at you are at liberty to do, or say anything which you may wish to say relevant to the charge against you. Anything you say will be taken down and may be used in evidence at your trial".

(2) Before the accused person makes any statement the court shall state to him and give clearly to understand that he has nothing to hope from any promise of favour and nothing to fear from any threat which may have been held out to him to induce him to make any admission or confession of his guilty, but that whatsoever he then says may be given in evidence on his trial notwithstanding the promise or threat.

(3) Everything that the accused persons says shall be recorded in full and shall be shown or read over to him and he shall be at liberty to explain or add to anything contained in the record thereof.

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Attestation  
of record.

195. When the record of the statement, if any, made by the accused is made confirmable to what he declares is the truth, the record shall be attested by the magistrate who shall certify that such statement was taken in his presence and hearing and contains accurately the whole statement made by the accused person. The accused person shall sign or attest by his mark such record may be used as if the accused had signed or attested it.

List of  
witnesses.

196. Immediately after complying with the provisions of sections 194 to 195 the court shall make the list of all witnesses whom the Attorney General intends to call and shall ask the accused person whether he intends to call witnesses at the trial and if so, whether he desire to give their names and addresses so that they may be summoned. The court shall there upon, record the names and addresses of any such witnesses whom the accused may mention.

Adjournments.

197.(1) If from any reasonable cause to be recorded in the proceedings the court considers it necessary or advisable to adjourn the proceedings the court may, from time to time by warrant, remand the accused for a reasonable time, not exceeding fifteen days at any one, time to some prison or any other place or security.

(2) Where the remand is for not more than three days, the court may, by word of mouth order the officer or person, to continue to keep the accused in his custody and bring him up at the time to be appointed for the commencement or continuance of the inquiry.



(3) During a remand, a court may at anytime order the accused to be brought up before it.

(4) Subject to the provisions of this Decree the court may admit an accused on remand to bail.

Accused entitled to copy of proceedings.

198.(1) A person who has been committed for trial before the High Court shall be entitled at any time before the trial to have a copy of the record of the committal proceeding without payment.

(2) The court shall, at the time of committing him for trial inform the accused person of his right to a copy of the committal proceedings without payment.

Documents contained in the proceedings.

199. Every record of the proceedings supplied to the accused pursuant to section 198 shall contain a copy of the charge or charges, copies of the statements and documents produced to the court during the committal proceedings and copy of the record of the proceedings before the court.

Binding the witness.

200.(1) A prosecutor may at any time during the trial before the High Court, apply to the court to summon any person whose attendance may be required at the trial to give evidence or to produce any document and to bind such person to appear at the trial.

(2) Upon the application being made under sub-section (1) the court shall summon the person in respect of whom such application is made to appear before it, and when he so appears, the





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court shall bind him by recognizance with or without sureties as it may deem requisite, to appear at trial in compliance with any summons issued in accordance with this Decree.

Witness refusing recognizance be arrested.

201. If a person required to enter into recognizance refuses to enter into such recognizance, the court may commit him to prison or into the custody of any other officer of the court, there to remain until such time as the trial has taken place or the case against the accused is otherwise disposed of, unless in the meantime such person enters into recognizance required by the court.

(b) Preservation of testimony in Certain cases.

Depositions of person dangerously ill.

202. Where it appears to a magistrate that any person, who is dangerously ill or hurt and not likely to recover or who, for any other reason whatsoever, may not be available to give evidence at the trial, is able to and willing to give material evidence relating to any offence, such court may take in writing the statement on oath or affirmation of such person and shall subscribe the same, and certify that it contains, accurately the whole of the statement made by such person, and the magistrate taking the statement shall certify his reason for taking the same and shall state the date and place when and where the same was taken, and shall preserve such statement and file it for record. Provided that where the statement is that of a person who by reason of immature age or want of religious belief ought not, in the opinion of the magistrate, to be sworn or affirmed, the statement may be taken without oath or affirmation.

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Notice to  
be given.

203.(1) Where any person is under a charge or has been committed for trial in respect of the offence to which such statement is expected to relate, reasonable notice shall be given of intention to take such statement both to the prosecutor and to such person.

(2) If such person is in custody, he may, and shall if he so requests, be brought by the officer in whose charge he is, under an order in writing of the magistrate, to the place where the statement is to be taken.

Right to  
cross-examine.

204. Where such statement is taken in the presence of an accused person, such accused person or his advocate (the prosecutor also if he be present) shall be given an opportunity to put questions to the deponent and the answers of such deponent thereto shall form part of the statement; and, if the accused person is committed for trial, the statement shall be transmitted to the Registrar of the High Court, and a copy thereof to the Attorney General.

Use of  
statement in  
evidence.

205.(1) Every such statement duly subscribed and certified by the magistrate in the manner required by section 202 shall without further proof, be admissible in evidence at any trial whether before the High Court or subordinate court in which the accused person is charged with the offence to which such statement relates if:-

- (a) the court is satisfied that the person who made the statement is dead, or that his attendance cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable; and



(b) the accused received notice of the court to take such statement as provided in section 203 and has, or might have had if he had chosen to be present, full opportunity of cross-examining the deponent.

(2) Nothing in this section shall be construed as affecting any provision of the Evidence Decree.

(c) Proceedings after Committal for Trial.

Transmission of depositions.

206. When an accused person has been committed for trial the record of committal proceedings, duly signed and authenticated by the magistrate, shall be transmitted without delay by the committing court to the Registrar of the High Court and authenticated copies of the charge and proceedings aforesaid shall be forwarded to the Attorney General.

Registrar to endorse proceedings.

207. After the receipt of the copies of the record of committal proceedings in the High Court the Registrar or his deputy shall endorse or annex to every information filed as aforesaid and to every copy thereof delivered to the officer of the court or police officer for service thereof, a notice of trial which notice shall specify the particular sessions of the High Court at which the accused person is to be tried on the said information, and shall be in the following form, or as near thereto as may be:-

"A.B

Take notice that you will be tried in the information whereof this is a true copy at the sessions of the High Court to be held at ..... on the ..... day of ..... 19 .....



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Notice of  
trial.

208. The Registrar shall deliver or cause to be delivered to the officer of the court or police officer serving the information a copy thereof with the notice of trial endorsed on the same or annexed thereto, and, if there are more accused persons committed for trial than one, then as many copies as there are such accused persons, and the officer of the court or police officer aforesaid shall, as soon as may be after having received the copy or copies of the information and notices or notices of trial, and three days at least before the day specified there for trial, be himself or his deputy or other officer, deliver to the accused person or persons committed for trial the said copy or copies of the information and notice or notices, and explain to him or them the nature and exigency thereof; and when any accused person shall have been admitted to bail and cannot readily be found, he shall leave copy of the said of the information and notice of trial with someone of his house held for him, and if none such can be found, shall affix the said copy and notice to the outer or principal door of the dwelling house or dwelling houses of the accused person or of any of his bail:

Provided always that nothing herein contained shall prevent any person committed for trial, and in custody at the opening of or during any sessions of the High Court, from being tried and no special objection be made thereto on the part of the prosecution.

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Return of  
service.

209. The officer serving the copy or copies of the information and notice or notice of trial shall forthwith make to the Registrar a return of the made of service thereof.

Postponement.

210.(1) It shall be lawfull for the High Court upon the application of the prosecutor or the accused person, if the court considers that there is sufficient cause for the delay, to postpone the trial of any accused person to the next sessions of the court to a subsequent session.

(2) The High Court may give such derections of the amendment of information and the service of any notices which the court may deem necessary in consequence of any order made under sub-section (1).

Signing of  
information.

211. All informations drawn up in pursuance of section 192 shall be in the name of and (subject to his power to delegate some of his powers) signed by the Attorney General.

Form of  
Information.

212. Every information shall bear date of the day when the same is signed, and, with such modifications as shall be necessary to adopt it to the circumstances of each case, may commence in the following form:-

"In the High Court of Zanzibar.

The ..... day of .....19.....

At the sessions holden at ..... on the day of ..... 19..... the Court is informed by the Attorney General on behalf of ..... that A.B. is charged with the following offence (offences).



Registrar to  
Summon  
witnesses  
before  
trial.

213.(1) The Registrar of the High Court shall, before the commencement of the trial, issue summons for the attendance of the trial of all witnesses whose statements were produced during the Committal proceeding and all witnesses whose name and addresses were given to the committing magistrate by the accused.

(2) The Registrar may issue order to bind any such witness he has summoned with or without sureties to appear at the trial to give evidence and also to appear and give evidence, if required, at any further examination or investigation concerning the charge that may be conducted under the direction of the Attorney General or of the court.

(d) Other Provisions.

Magistrate may  
determine the  
case upon  
application.

214.(1) A magistrate conducting the committal proceedings may, at any stage of the proceedings before the accused is committed to the High Court, upon the request in writing by the Attorney General or by any attorney on his behalf and upon having competent jurisdiction to hear and determine the case, proceed to hear and finally determine the matter either on the original or substituted charge.

(2) When a magistrate has committed the accused to the High Court, the Attorney General or any attorney appearing on his behalf may at any stage of the proceeding but before judgment apply before the High Court to substitute the charge and the High Court may upon such substitution of a charge proceed with the case on the new charge or where appropriate transfer the case to subordinate court of competent jurisdiction.



Presumptions  
and  
Objections.

215.(1) At any inquiry made under this part any document purporting to be a report under the hand of a medical officer or a Government chemist upon any examination or analysis carried out by him shall, if it bears his signature, be admitted in evidence.

(2) The magistrate may presume that the signature to any such document is genuine and that the person signing it held the office which he professed to hold at the time when he signed it.

(3) No objection to a charge, summons or warrant for defect in substance or in form, or for variance between it and the evidence of the prosecution, shall be allowed, but a magistrate may give such direction when he deems necessary for any party to the proceedings to rectify any such default.

Prosecution  
for  
perjury.

216.(1) Where any court is of opinion that any person has, in the course of any civil or criminal proceedings before such court, been guilty of perjury, it may order the prosecution of that person for such perjury, in case there shall be reasonable cause for such prosecution, and may commit him, or admit him to bail, to take his trial before the High Court and may require any person to enter into a recognisance to prosecute or give evidence against the person whose prosecution is so ordered.

(2) A certificate signed by a Judge or magistrate of the making of the order for such prosecution shall have the same force and effect for all purposes as the commitment for trial of an accused person under section 193.



Application of  
Evidence  
Decree.

217.(1) The provisions of section 80 of the Evidence Decree shall apply Cap. 5 to any document which is produced in any subsequent trial before the High Court and which contains any statement on which such perjury is assigned.

(2) The evidence of any witness, who is required to enter into a recognisance under this section and which has been duly taken in accordance with law in the proceedings in which such perjury is alleged to have been committed, shall for the purposes of any subsequent proceedings in respect of such charge of perjury be deemed to be the deposition of such witness taken in accordance with the provisions of this Part.

Provided that nothing herein contained shall be deemed to authorise the reading of such evidence in any trial before the High Court unless:-

- (a) the conditions set out in section 24B have been satisfied; or
- (b) such evidence is admissible under the provisions of section 155 of the Evidence Decree.

Power of  
the High  
Court not  
affected.

218. Nothing contained in this section shall be deemed to affect the power of any court of competent jurisdiction other than the High Court to inquire into, try, or otherwise deal with a charge of perjury in accordance with the other provisions of this Decree or of any other law for the time being in force.

Repeal of  
Act No. 7  
of 1991.

29. Criminal Procedure (Amendment) Act No. 7 of 1991 is hereby repealed. Save that anything commenced or instituted under the said Act shall be lawful and anything pending shall be continued under this Act and may, where necessary, be modified or adapted so as to comply with the provisions of this Act.





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PART IV  
AMENDMENT OF CIVIL PROCEDURE DECREE.

Amendment of  
section 60.

30. The Civil Procedure Decree is hereby amended as follows:

- (a) by adding immediately after the last word of subsection (1) the following words;

"for the purpose of this section suit shall include any application or proceedings whatsoever instituted in any court."

- (b) by repealing the whole of sub-section (2) and substituting therefor the following new sub-section (2) -

"(2) For the purpose of this section and of sections 59, 61 and 62 any Local government established under the provisions of any Law regulating the establishment of any Local government shall be deemed to be part of Zanzibar Government".

- (c) by adding the following subsection

"(5) Nothing in this section or Decree shall be deemed to bar application for interlocutory order against the Zanzibar Government without expiry of sixty days from the date of under subsection (1) of this section. Save that no such application shall be entertained without a proof or



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promise that a notice required under subsection (1) has been issued or will be so issued within not less than three days from the date of application."

Passed in the House of Representatives  
on the 31st day of March, 1995.

*K J Chande*  
KHAMIS JUMA CHANDE

CLERK TO THE HOUSE OF REPRESENTATIVES.