



## THE ZANZIBAR AIDS COMMISSION ACT, 2002

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ACT NO. 3 OF 2002

I ASSENT

*Amani Abeid Karume*

{ AMANI ABEID KARUME }  
PRESIDENT OF ZANZIBAR  
AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

*5<sup>TH</sup> JUNE* ....., 2002

**AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF ZANZIBAR  
AIDS COMMISSION AND TO PROVIDE FOR ITS STRUCTURE  
FUNCTIONS AND POWERS AND MATTERS CONNECTED  
THEREWITH OR INCIDENTAL THERETO**

ENACTED by the House of Representatives of Zanzibar.

**PART I  
PRELIMINARY**

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|-------------------------------|---|
| Short title and Commencement. | 1. This Act may be cited as the Zanzibar AIDS Commission Act 2002 and shall come into operation immediately upon being assented to by the President.  |
| Interpretation                | 2. In this Act, unless the context otherwise requires:<br><br>"AIDS" means acquired immune deficiency syndrome caused by HIV infection and includes the AIDS related complex;<br><br>"A member" means a member of the Commission referred to in subsection (2) of section 5 of this Act;<br><br>"Chairperson" means the chairperson of the appointed under section 5(1)(a) of this Act; |



"Commission" means the Zanzibar AIDS Commission established under section 3 of this Act;

"Committee" means the Committee of the Commission referred to in subsection (1) of section 12 of this Act;

"Executive Director" means the Executive Director of the Commission appointed under subsection (1) of section 21 of this Act;

"Financial year" means a period of consecutive twelve months ending 30<sup>th</sup> June of each year.

"HIV" means the human immuno-deficiency virus;

"Minister" means the Minister of State in the Chief Minister's office or any other Minister to whom the President may, from time to time, assign the administration of this Act;

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

"Principal Secretary" means the Principal Secretary of the Ministry responsible for the Commission.

## **PART II**

### **ZANZIBAR AIDS COMMISSION**

Establishment of Zanzibar AIDS Commission.

3. There is hereby established a Commission, to be known as the Zanzibar AIDS Commission, which shall be a body corporate capable of suing and being sued in its corporate name and subject to this Act, of doing anything that bodies corporate may do by law.

Functions and Powers of the Commission.

4. Subject to this Act, the functions of the Commission shall be:

- (a) to ensure the development of strategies and policies in combating HIV and AIDS;





- (b) to control and ameliorate the effects of the HIV and AIDS epidemic and to promote and co-ordinate the application of such strategies and policies;
- (c) to mobilise and manage resources, whether financial or otherwise, in support to a national response to HIV and AIDS;
- (d) to enhance the capacity of the various sectors of the Community to respond to the HIV and AIDS epidemic and to co-ordinate their responses;
- (e) to encourage the provision of facilities to treat and care for persons infected with HIV and AIDS and their dependants;
- (f) to monitor and evaluate the effectiveness of the strategies and policies referred to in paragraph (a) and generally, the national response to HIV and AIDS;
- (g) to disseminate and encourage the dissemination of information on all aspects of HIV and AIDS;
- (h) to submit regular reports to the Minister, on the Zanzibar AIDS Commission concerning the HIV and AIDS epidemic; and
- (i) to exercise any other function that may be conferred on the Commission by this Act or any other enactment.

Members of the Commission.

5(1) There shall be members of the Commission who, subject to this Act, shall be the following:-

- (a) Chairperson who shall be appointed by the President;
- (b) Principal Secretary, Ministry of Health;
- (c) Principal Secretary, Ministry of Education;



- (d) One representative from the media (electronic, news paper, radio) appointed by the Minister;
- (e) Executive Secretary of Zanzibar Chamber of Commerce, Industry and Agriculture;
- (f) Principal Secretary, Ministry of Youth, Employment, Women and Children Development;
- (g) Principal Secretary, Ministry of State (P.O) Regional Administration;
- (h) Not less than two not more than three other members appointed by the Minister to represent the interests of youths, religious groups and advocacy organisations (Non-governmental organisations) that protects the interests of persons infected with HIV and AIDS.

(2) The Zanzibar AIDS Control Programme management office will function in the full capacity as the secretariat to the Commission.

Terms of office and conditions of service of members of the Commission.

6(1) Subject to this Part, an appointed member of the Commission shall hold office for such period, not exceeding three years and for such conditions as the Minister may fix on his appointment, and upon the expiry of the term in office shall be eligible for re-appointment for another term.

(2) On the expiry of the period for which a member has been appointed to the Commission, a member shall continue to hold office until has been re-appointed or a successor has been appointed; provided that a member shall not continue to hold office under this subsection for a period exceeding six months.

(3) A member referred to in paragraph (b), (c), (e), (f), (g), of subsection (1) of section 5 shall remain a member for so long as he holds the office referred to in that section.

(4) Any appointed member may be paid from the funds of the Commission:-

- (a) such amount as the Minister may fix; and



- (b) such allowances as, the Minister may fix to meet any reasonable expenses incurred by the member in connection with the Commission's business

Vacation of office by appointed Member of the Commission.

7. An appointed member shall vacate the office and the office shall become vacant:-

- (a) thirty days after he gives notice in writing to the Minister of his intention to resign; or
- (b) if he is required in accordance with the provision of section 8 of this Act to vacate the office.

Minister may require any appointed member of the Commission to vacate office.

8.(1) Minister may require any appointed member to vacate the office if the member:-

- (a) has been convicted of improper conduct as a member of the Commission or of conduct that is prejudicial to the interest or reputation of the Commission; or
- (b) has failed to comply with any condition of the office fixed by the Minister in accordance with subsection (1) of section 6; or
- (c) is mentally or physically incapable of efficiently exercising the function as a member of the Commission.

(2) The Minister, on the recommendation of the Commission, may require an appointed member to vacate the office if the Minister is satisfied that the member has been absent without the permission of the Commission from three consecutive meetings of the Commission, of which the member was given not less than seven days notice, and that there was no just cause for the member's absence.

- (3) The Minister may:





- (a) suspend from office any appointed member against whom criminal proceedings have been instituted and convicted for that offence for which a sentence of imprisonment without the option of a fine may be imposed; and
- (b) remove from office any appointed member has been sentenced by a court to imprisonment without the option of a fine, whether or not any person has been suspended, pending determination of the question whether the member is to vacate the office;

and while the member is so suspended shall not exercise any function or be entitled to any remuneration as a member.

Filling of vacancies on the Commission.

9.(1) On the death of, or the vacation of office by, an appointed member, the Minister may, subject to this Part, appoint a person to fill the vacancy.

(2) The vacancy occurs in the office of a member referred to in paragraph (h) of subsection (2) of section 5 of this Act.

(3) As a result of the vacancy the Minister shall appoint a person to fill the vacancy within three months after being notified about it by the chairperson of the Commission.

Chairperson of the Commission.

10.(1) The President shall appoint the chairperson of the Commission from among persons with qualifications such as management or administrative degree or equivalent and experience not less than five years in relation to the functions of the Commissions or related to that of Commission individual competence, mature, commitment, seniority and high profile.

(2) No person shall be appointed as a chairperson and no shall be qualified to hold office as such if he is disqualified for appointment under subsection (1) or if he is required to vacate office as a member of the Commission in accordance with section 8 of this Act.

(3) The chairperson shall hold office for three years period and he can be re-appointed for another term.





(4) The chairperson shall hold office for such period and upon such terms and conditions as; the President may determine.

(5) In the absence of the chairperson one among the members of the Commission shall be selected to act as a chairperson.

(6) The chairperson may at any time, by written notice given to the President, resign his office as such.

(7) Within three months after being notified a vacancy in the office of the chairperson the President shall elect another Chairperson to fill the vacancy.

Meetings and  
Procedure of  
the Commission.

11.(1) The Commission shall hold its first meeting on a date and place fixed by the Minister, and thereafter subject to this section, shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedure as it thinks fit; provided that the Commission shall meet once in every three months.

(2) The chairperson:-

(a) may convene a special meeting of the Commission at any time; and

(b) shall convene a special meeting of the Commission on the written request of the Minister or not less than two members of the Commission which meeting shall be convened for a date not sooner than seven days and not later than thirty days after chairperson receipt of the request.

(3) Written notice of a special meeting convened in terms of subsection (2) shall be sent to each member not later than forty-eight hours before the meeting and shall specify the business for which the meeting has been convened.

(4) No business shall be discussed at a special meeting convened under subsection (2) other than:-



- (a) such business as may be determined by the Chairperson where he convened the meeting under paragraph (a) of subsection (2); or
  - (b) the business specified in the request for the meeting, where the chairperson of the Commission convened the meeting under paragraph (b) of subsection (2).
- (5) The chairperson shall preside all meetings of the Commission and if the chairperson is absent the Commission shall elect one of the members to preside the meeting.
- (6) Half of the members shall form quorum at any meeting of the Commission.
- (7) Subject to subsection (11), anything authorized or required to be done by the Commission may be decided by a majority vote at any meeting of the Commission at which a quorum is present.
- (8) With the Commission approval, the chairperson may invite any person to attend a meeting of the Commission where the chairperson considers that the person has special knowledge or experience in any matter to be considered by the Commission at that meeting.
- (9) A person invited to attend a meeting of the Commission under subsection (8) may take part in the proceeding of the Commission, in so far as those proceeding are concerned with the matter for which was invited, but shall not have a vote on any question before the Commission.
- (10) Subject to subsection (11), at all meetings of the Commission each member shall have one vote on any question before the Commission and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to a deliberative vote.
- (11) The Executive Director shall not take part in the discussion of and shall not vote on, any question before the Commission which relates to his tenure of office or terms of conditions of service.



(12) Any proposal circulated among all members and agreed to in writing by a majority of them shall have the same effect as a resolution passed by a constituted meeting of the Commission and shall be incorporated into the minutes of the next succeeding meeting of the Commission.

Provided that, if a member requires that such a proposal be placed before a meeting of the Commission, this subsection shall not apply to the proposal.

Committees of  
the Commission.

12.(1) For the better exercise of its functions, the Commission may establish any committees as it considers necessary and may vest in them such of its functions as it considers appropriate. Provided that the vesting of any function in a committee shall not divest the Commission of that function, and the Commission may amend or rescind any decision of the committee in the exercise of that function.

(2) The existing committees such as technical AIDS committees (TACs) and District AIDS Committees (DACOMs) shall be recognized by Zanzibar AIDS Commission and continue to work accordingly.

(3) On the establishment of a committee in accordance with the subsection (1), the Commission shall appoint to the committee one member of the Commission, who shall be the chairperson of the committee.

(4) Subsection (5) of section 6 shall apply, mutatis mutandis, to member of the committees established in accordance with the subsection (1) of this section.

Meetings of  
the committees.

13.(1) Meetings of any committee of the Commission may be convened at any time and at any place by the chairperson of the Commission or of the committee concerned.

(2) Subject to section 14, the procedure of the Committees of the Commission shall be determined by the Commission.





Minutes of  
Proceeding of  
Commission and  
Committees.

14(1) The secretariat to the Commission shall cause minutes of all proceedings and decisions taken at all meetings of the Commission and its committees to be entered in the special books kept for that purpose.

(2) Any minutes referred to in subsection (1) of this section which purport to be signed by the chairperson of the meeting to which the minutes related or by the chairperson of the next following meeting of the Commission or the Committee concerned, as the case may be, shall be accepted for all purposes as prima facie evidence of the proceedings and decisions taken at that meeting.

Validity of the  
decisions.

15. No decision or act of the Commission or of any committee of the Commission or act done under the authority of the Commission or a committee of the Commission shall be invalid solely on the ground that there was a vacancy in the membership of the Commission or the committee, as the case may be, or that a disqualified person purported to act as a member of the Commission or the committee concerned at the time the decision was taken or the act was done or authorized.

Execution of the  
Contracts and  
Instruments by  
Commission.

16 Any agreement, contract or instrument approved by the Commission may be entered into or executed on behalf of the Commission by any person or generally or specifically authorised by the Commission for that purpose.

Reports of the  
Commission.

17(1) In addition to any annual report, which the Commission may be required to submit to the Minister, the Commission: -

- (a) shall submit to the Minister such other reports as the Minister may require; and
- (b) may submit to the Minister such other reports as the Commission considers desirable in regards to the operations, undertakings and activities of the Commission.

(2) The Commission shall provide to the Minister all information relating to the operations, undertaking and activities of the Commission that the Minister may at any time require.





Minister may give  
Commission  
Directions.

18.(1) Subject to subsection (2) of this section the Minister may give the Commission such directions of a general character relating to the policy which the Commission is to observe in the exercise of its functions, as the Minister considers to be requisite in the national interest.

(2) Before giving the Commission a direction in accordance with the subsection (1) of this section the Minister shall inform the Commission, in writing of the proposed direction and the Commission shall, within thirty days or such further period as the Minister may allow, submit to the Minister, in writing, its views on the proposal and the possible effects which the proposal may have on the activities, funds and property of the Commission.

(3) After receipt of the views of the Commission submitted under subsection (2) of this section the Minister may confirm, alter or withdraw any proposed direction to the Commission.

(4) The Commission shall take all necessary steps to comply with any direction given to it under subsection (1) of this section or, as the case may be, any alteration made to such a direction under subsection (3) of this section.

(5) When any direction has been received by the Commission under this section, the Commission shall set out in the Commission's annual report the direction received by it, the views expressed by it under subsection (2) of this section and the final direction given to it under subsection (3) of this section.

Exemption from  
Liability of the  
members of the  
Commission.

19.(1) No liability shall attach to the chairperson and any member of the Commission or agent of the Commission for any loss or damage sustained by any person as a result of the bona fide exercise of any function of the Commission, under this Act or any other enactment.

(2) This section shall not be construed so as to prevent any person from recovering, by proceedings in a court of competent jurisdiction, compensation for any loss or damage which was caused by negligence or breach of contract.



**PART III**  
**PATRON, EXECUTIVE DIRECTOR AND**  
**STAFF OF THE COMMISSION**

Patron of the  
Commission.

20.(1) The President shall be the Patron of the Commission and, in that capacity, shall have such functions as normally attached to the office of Patron of a welfare organization.

(2) The Patron may at any time attend and address any meeting of the Commission and may take part in the proceedings of any such meeting, but shall not have a vote on any question before the Commission.

Executive Director  
of the  
Commission.

21.(1) The President shall appoint Executive Director from among persons with qualifications and experience relevant to the functions of the Commission.

(2). Subject to the control of the Commission, the Executive Director shall:

- (a) exercise such of the Commission's functions as other members, with the approval of the Minister;
- (b) be responsible for the efficient management of the activities, funds and property of the Commission; and
- (c) exercise general authority over the conduct and discipline of the Commissions staff.

Other staff of  
the Commission.

22(1) Subject to this section, the Commission may engage such number of staff as it considers necessary to carry out the Commission's functions.

(2) Members of staff engaged in under subsection (1) of this section shall be deployed upon such terms and conditions as may be determined by the Commission and approved by the Minister.



**PART IV**  
**FINANCIAL PROVISIONS**

Funds of the Commission.

23. The funds of the Commission shall consist of:-
- (a) any moneys that may be payable to the Commission from moneys appropriated by the House of Representatives;
  - (b) fees and charges raised for services and facilities provided and other things done by the Commission;
  - (c) donations, which may be accepted in line with the governmental regulations;
  - (d) loans, which may be raised with the approval of the treasury regulations; and
  - (e) any other moneys that may vest or accrue to the Commission, whether in the course of its operations or otherwise.

Investment of Moneys by the Commission.

24. Moneys not immediately required by the Commission may be invested in such manner as the Minister, acting on the advice of the Minister responsible for Finance, may approve.

Financial year of the Commission.

25. The financial year of the Commission shall be the period of twelve months ending on the 30<sup>th</sup> June each year.

Accounts of Commission.

26(1) The Commission shall ensure that proper accounts and other records relating to such accounts are kept in respect of all the Commission's activities, funds and property, including such particular accounts and records as the Government procedures direct.

(2) As soon as possible after the end of each financial year, the Commission shall prepare and submit to the Principal Secretary a statement of accounts in respect of that financial year.





Audit of Commission  
Accounts.

27.(1) The Commission shall appoint as auditors one or more persons approved by the Minister who are registered as public auditors.

(2) The accounts kept by the Commission under subsection (1) of section 26 shall be examined by the auditors appointed under subsection (1) of this section.

(3) The auditors appointed under subsection (1) of this section shall make a report to the Commission and to the Minister on the statement of accounts prepared under subsection (2) of section 26, and in their report shall state whether or not in their opinion the statement of accounts gives a true and fair view of the Commission's financial affairs.

(4) In addition to the report referred to in subsection (3) of this section the Minister may require the Commission to obtain from the auditors appointed under subsection (1) of this section such other reports, statements or explanations in connection with the Commission's activities, funds and property as the Minister considers expedient, and the Commission shall forthwith comply with any such requirement.

(5) If, in the opinion of the auditors appointed under subsection (1) of this section:-

- (a) they have not obtained any information or explanation they require,
- (b) any accounts or records relating to any accounts have not been properly kept by the Commission; or
- (c) the Commission has not complied with any provision of this Part;

the auditors shall include in their report made under subsection (3) of this section a statement to that effect.

(6) If in the opinion of the Controller and Auditor General of Zanzibar the Commission's accounts are required to be audited by the Auditor-General, any reference in this section to





auditors appointed under subsection (1) of this section shall be construed as a reference to the Controller and Auditor-General.

Power of  
Auditors.

28.(1) An auditor referred to in section 27 of this Act shall be entitled at all reasonable times to require to be produced to him all accounts and other records relating to such accounts which are kept by the Commission or its agents and to require from any member of the Commission or employee or agent of the Commission such information and explanation as in the auditors opinion are necessary for the purpose of the audit.

(2) Any member of the Commission or employee or agent of the Commission who fails without just cause to comply with a requirement of an auditor under subsection (1) of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

#### **PART V GENERAL PROVISIONS**

Pemba office  
and committees.

29. The Commission shall establish its office in Pemba together with its committee as it deems necessary and shall exercise their function as directed by the Commission.

Special responsibility  
of the  
Commission.

30 The Commission shall, in the exercise of its powers of direction and supervision over the office and committee under section 29, have special responsibility:-

- (a) to ensure that the office is established effectively and that the office is staffed adequately and equipped for the efficient performance of its functions;
- (b) to take or cause to be taken such measures as will facilitate the proper and effective co-ordination of the operations of the Commission in the branch and the integration of the activities of the office committee and the Commission;

Preservation of  
Secrecy.

31. Any person who discloses, except:



- (a) to the Minister or to any other person, for the purpose of performing the functions under this Act; or
- (b) to a police officer, for the purpose of an investigation or inquiry relating to the enforcement of this Act; or
- (c) when required to do so by any court or under any enactment:

any information acquired by any person in the performance of any function under this Act, in relation to the state of health or personal affairs of any other person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three million shillings or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

Regulations.

32. The Minister may make regulations for the better carrying into effect of the purposes stipulated under the provisions of this Act.

Passed in the House of Representatives on the 18<sup>th</sup> day of April, 2002.

{ **KHAMIS JUMA CHANDE** }  
**CLERK OF THE HOUSE OF REPRESENTATIVES**