



**THE ZANZIBAR JUDICIAL SERVICE
COMMISSION ACT, 2003**

ARRANGEMENT OF SECTIONS

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SCHEDULE



ACT NO. 13 OF 2003

I ASSENT

Amani Abeid Karume
{ **AMANI ABEID KARUME** }
PRESIDENT OF ZANZIBAR
AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

04 - NOVEMBER
....., 2003

**AN ACT TO MAKE PROVISIONS IN PURSUANCE OF ARTICLES
102, 102A & 103 OF THE CONSTITUTION IN RELATION TO
THE FUNCTIONS, POWERS AND PRIVILEGES AND OTHER
MATTERS OF THE JUDICIAL SERVICE COMMISSION**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY**

Short title and
commencement.

1.(1) This Act may be cited as the Zanzibar Judicial
Service Commission Act, 2003 and shall come into operation
immediately upon being assented by the President.

(2) This Act shall be read together with the
Constitution.

Interpretation.

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

"Chairman" means the Chairman of the Commission;



"Commission" means the Judicial Service Commission establishment under Article 102 (1) of the Constitution;

"Constitution" means the Constitution of Zanzibar of 1984;

"Judicial Officer" means any of the following persons:-

- (a) Registrar of the High Court;
- (b) Deputy Registrar of the High Court;
- (c) District Registrar;
- (d) Any Magistrate performing magisterial functions;
- (e) All Kadhis, with the exception of Chief Kadhi and Deputy Chief Kadhi;

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

"Temporary appointment" means an appointment which may be terminated by giving one months' notice on either party.

Provided that for the purposes of this Act such an appointment shall not be deemed to be a temporary appointment if:-

- (a) at the time it is made, it is intended by both parties that it shall be of a period of more than six months on monthly terms; or
- (b) it has been held for a period of more than six months on monthly terms.



**PART II
THE COMMISSION**

Composition.

3.(1) The Commission shall consist of:

- (a) Chief Justice as Chairman;
- (b) One Judge of the High Court appointed by the President;
- (c) One retired Judge of the High Court or Appellate Court of Tanzania appointed by the President;
- (d) One Advocate appointed by the President from the recommendations of the Zanzibar Law Society;
- (e) Chairman of the Civil Service Commission;
- (f) Attorney-General;
- (g) Chief Kadhi; and
- (h) Any other person appointed by the President, as he deems fit.

(2) If the Chairman is absent the Commission may appoint one of its members to chair the meeting.

(3) No person shall be qualified to be appointed under paragraph (c), (d) and (h) of subsection (1) of this section if he is a member of the House of Representatives of Zanzibar or Parliament of the United Republic of Tanzania or East African Legislative Assembly or has been so disqualified by an Act of the House of Representatives.



Tenure and conditions of Service.

4.(1) A member of the Commission appointed under paragraph (b), (c), (d) and (h) of section 3 of this Act, shall hold office for a period of three years, and shall be eligible for reappointment for no more than a second term not exceeding three years.

(2) There shall be paid to each member of the Commission such allowances as shall be determined by the President from the recommendation of the Commission.

(3) A member of the Commission appointed under paragraph (b), (c), (d) and (h) of section 3 of this Act may resign his office upon giving one months' notice in writing to the President.

(4) The office of the member of the Commission shall become vacant -

- (a) upon the member's resignation or removal from office;
- (b) upon the member's retirement or death;
- (c) upon the expiration of three years from the date of appointment;

Removal of the member.

5.(1) Subject to this Act, a member of the Commission may be removed from office only for inability to perform the functions of his office, due to illness or to any other reason, or for misbehaviour inconsistent with the ethics of office.

(2) Where the question of the removal of a member of the Commission arises and the President is satisfied that the matter be investigated -

- (a) he shall appoint a special tribunal consisting of:



- (i) a chairman and not less than two other members, all being qualified Medical Doctors of Zanzibar, in case of illness; or
 - (ii) a chairman and not less than two other members, in case of misbehaviour or any other reason;
- (b) the special tribunal shall investigate the matter and within 90 days from the date on which the special tribunal was formed, make a report to the President on the whole matter and advise on whether or not the member of Commission should be removed from office in accordance with the provisions of this section;
- (c) if the special tribunal advises the President that the member of the Commission be removed from office on any of the grounds stipulated in subsection (1), then the President shall remove that member of the Commission from office.

(3) Where the question of removing a member of the Commission from office has been referred to the special tribunal pursuant to this section, the President may suspend the member of the Commission from duty, and he may at any time rescind the suspension and in any case such suspension shall lapse if the special tribunal advises the President not to remove the member of Commission.

Secretary of the
Commission.

6.(1) There shall be a Secretary to the Commission who shall be appointed by the Chief Justice after consultation with the Commission from amongst persons holding a judicial office of the Judicature.

(2) The Secretary shall, subject to the general directions and control of the Commission -



- (a) be responsible for the carrying out the policy decisions of the Commission and the day to day administration and management of the affairs of the Commission;
- (b) be responsible for arranging the business for and the recording and keeping of the minutes of all proceedings and decisions of the Commission at its meetings; and
- (c) perform any other function assigned to him by the Commission or by or under any written law.

Oaths.

7. Every member of the Commission and the Secretary to the Commission shall, before entering upon the duties of his office, take and subscribe the oath for the due discharge of the functions of his office set out in the Schedule to this Act, which oath shall be administered by the Chairman of the Commission.

PART III STATUS, FUNCTIONS & POWERS

Independence of the Commission.

8. Subject to the provisions of the Constitution, the Commission shall be independent and shall not in the performance of its functions be subject to the directions or control of any person or authority.

Proceedings of the Commission.

9.(1) The Commission shall have power to determine its own procedure for the conduct of its meetings but may otherwise be guided by such procedures as may be prescribed by regulations made under this Act.

(2) Notwithstanding the provisions of subsection (1) of this section, no business shall be transacted at any meeting of the Commission unless there are present at least five members of the Commission.



Provided that any decision of the Commission shall require the concurrence of a majority of the members thereof.

(3) Notwithstanding the provisions of subsection (1) of this section, the Commission shall meet at least twice a year.

Functions of the Commission.

10. Subject to the provisions of the Constitution and other relevant laws, it shall be the duty of the Commission -

- (a) (i) to advise the President on all matters affecting the appointment of the Chief Justice;
- (ii) to make recommendations to the President affecting the appointment of High Court Judges, Chief Kadhi and Deputy Chief Kadhi;
- (b) to deal with all matters affecting appointment, promotion and discipline of judicial officers;
- (c) to deal with all matters affecting the confirmation, deferment of confirmation or non-confirmation of the appointed judicial officers;
- (d) to deal with all matters affecting the awarding of increments, deferment or withholding increments of judicial officers and the crossing of efficiency bars by such officers;
- (e) to deal with all matters affecting the compulsory retirement of judicial officers and also on the retention of judicial officers after they have reached the age of compulsory retirement;
- (f) to recommend salaries, allowances and retirement benefits of Judges and all other judicial officers;
- (g) to regulate Code of Conduct for Judges and other judicial officers.



PART IV MISCELLANEOUS

Regulations.

11.(1) The Chief Justice after consultation with the Commission may make Regulations which he may consider necessary and expedient providing for all or any of the following matters -

- (a) organisation of the work of the Commission and the manner in which it shall perform its functions;
- (b) the consultation by the Commission with persons or authorities other than the members of the Commission;
- (c) the appointment, tenure of office and terms of service of staff to assist the Commission in the performance of its functions;
- (d) the protection and privileges of members of the Commission in respect of the performance of their functions and privilege of communications to and from the Commission and its members in the case of legal proceedings.

(2) For the purpose of this section references to appointments shall be deemed to extend to appointments in an acting temporary capacity.

Repeal of Decree
No. 30 of 1962.

12.(1) The Judicial Service Commission Decree of 1962, is hereby repealed.

(2) all orders, notices or by laws made under the Decree are hereby repealed.



SCHEDULE

OATH OF A MEMBER

I Having been appointed as member of the Judicial Service Commission do swear/declare that I will freely and without fear or favour, affection or ill-will, discharge the functions of members of the Commission, and that I will not directly or indirectly reveal any matters relating to such functions to any unauthorized person or otherwise in the course of duty.

SO HELP ME GOD

Sworn/Declared before me this day of,
20.....

.....
**CHAIRMAN OF THE JUDICIAL SERVICE
COMMISSION**

OATH OF SECRETARY TO THE COMMISSION

I,, being called upon to exercise the functions of the Secretary to the Judicial Service Commission, do swear/declare that I will not, directly or indirectly reveal to any unauthorized person or otherwise than in the course of duty the contents or any part of the contents of any documents, communication of information whatsoever which may come to my knowledge in the course of my duties as Secretary to the Commission or under the provision of the Judicial Service Act.



SO HELP ME GOD.

Sworn/Declared before me this day of,
20.....

**CHAIRMAN OF THE JUDICIAL SERVICE
COMMISSION**

Passed in the House of Representatives on the 15th day of October, 2003.

Khamis Juma Chande

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