



THE REFERENDUM ACT OF 2010

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SCHEDULE



ACT NO. 6 OF 2010

I ASSENT

A. Karume
{ AMANI ABED KARUME }
PRESIDENT OF ZANZIBAR

AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL

30th April, 2010

AN ACT TO PROVIDE FOR THE PROVISIONS OF
REFERENDUM AND OTHER MATTERS
CONNECTED THEREWITH AND
INCIDENTAL THERETO

ENACTED by the House of Representatives of Zanzibar.

PART ONE
PRELIMINARY PROVISIONS

Short title and commencement. 1. This Act may be cited as the Referendum Act of 2010 and shall come into operation immediately after being assented to by the President.

Interpretation. 2. In this Act unless the context requires otherwise:

“Commission” means the Zanzibar Electoral Commission as established under the provisions of article 119 of the Constitution;

“Constitution” means the Constitution of Zanzibar of 1984;

“Election Act” means the Election Act No.11 of 1984;

“High Court” means the High Court of Zanzibar;

“Referendum” means a process of referring an issue or question to voters for decision;



“President” means the President of Zanzibar and Chairman of the Revolutionary Council;

“Voter” means any person who is for the time being qualified to vote at an election in accordance with the provisions of Election Act;

“Minister” means the Minister for the time being responsible for election affairs.

PART TWO REFERENDUM PROVISIONS

Order for referendum. 3.(1) Whenever resolution passed by the House of Representatives for holding referendum to ascertain the view of voters on any question or issue or where the President in his opinion thinks it is necessary or desirable so to do, the President shall, by order in writing published in the Official Gazette, command the Commission to hold referendum to ascertain the view of voters on that question or issue.

(2) An order for referendum shall be in the form as prescribed in the Schedule to this Act.

(3) An order for referendum made under sub section (1) of this section, shall:-

- (a) specify the question or issue to be put to the voters at the referendum in the form of question to be answered by “YES” or “NO”; and
- (b) specify a day on which referendum is to be held and that day shall be deemed to be a polling day for referendum.

(4) Without prejudice to the provisions of sub section (1) of this section, referendum may be held on any day prescribed in the order of the President.

Commission to be responsible for referendum. 4.(1) Without prejudice to the provisions of the Constitution and Election Act, the Commission shall be responsible for:-

- (a) supervising the general conduct of referendum; and
- (b) promotion and regulation of voter’s education for referendum.

(2) In conducting referendum under this Act, the Commission shall not be subject to the direction or control of any person or authority.



Appointment
of
referendum
officers.

5.(1) The Commission shall have power to appoint referendum officers as it may deem necessary for the purpose of referendum and subject to the provisions of this section, any referendum officer shall exercise such function relating to referendum as may be prescribed by the Commission.

(2) The referendum officer may if so empowered by the Commission under this Act, appoint any other person to assist him in the exercise of his function, provided that a referendum officer may at any time revoke any appointment made by him in pursuance of this section.

(3) Every referendum officer shall, before exercising any of the functions of his office, take and subscribe such an oath as the Commission may prescribe.

(4) The Commission may at any time revoke the appointment of a referendum officer.

(5) In this section referendum officer means Director of Elections and a person appointed under this section to be-

- (a) a district referendum officer;
- (b) a returning officer;
- (c) a polling officer;
- (d) an assistant polling officer;
- (e) a counting assistant; and
- (f) any person appointed by a referendum officer under subsection (2) of this section.

Polling
station for a
referendum.

6. For the purpose of a referendum under this Act, each constituency for the time being established by law for the purpose of electing members to the House of Representatives shall be divided into the polling stations.

Ballot
paper.

7.(1) The Commission shall be responsible to prepare the ballot papers for voting at a referendum.



(2) The ballot papers for voting in a referendum shall state the question or issue to be answered in form of "YES" or "NO" by the voters at the referendum.

Right to
vote at
referendum.

8. Any person who at the time of a referendum is registered as voter in the Zanzibar Permanent Voters Register shall be entitled to vote at a referendum.

Method of
taking the
poll at a
referendum.

9.(1) At a referendum, voting shall, subject to the provisions of the Election Act, be by secret ballot using one ballot box at each polling station.

(2) Immediately after the close of the poll, the Polling Officer shall proceed to count at the polling station, the ballot papers of that station and record the votes casted in YES, NO and invalid votes on the question or issue to be decided at the referendum.

(3) Subject to the provisions of this Act, the Commission may authorise a person as it may deem fit, to be present at the polling station throughout the period of voting, counting and tallying of the votes and ascertaining of the results of the poll.

(4) The Polling Officer shall sign and retain a copy of a declaration stating-

(a) the polling station; and

(b) the number of votes cast in YES, NO and invalid votes on the question or issue to be decided at the referendum,

and the Polling Officer shall then affix the results of the voting at that polling station before communicating them to the Returning Officer.

PART THREE REFERENDUM RESULTS

Referendum
results.

10.(1) The Chairman of the Commission shall announce the referendum results within forty eight hours after the closure of the poll, and such results shall be deemed to be official results and shall not be capable of being questioned in any manner save only by a referendum petition presented to the High Court.

(2) Any person or institution which announces a referendum results before it is declared by the Commission, commits an offence and upon conviction shall be liable to a fine of not less than one million shillings and not exceeding ten million shillings or imprisonment for a term of not less than three years or both such fine and imprisonment.



Referendum results to be binding to the Government.

11.(1) The majority of votes given in a referendum shall determine the decision of the voters on such question or issue in referendum and the referendum results declared by the Commission shall be binding to the Government.

(2) Where there is an equality of votes casted YES and NO on a question or issue at a referendum, the Commission shall, by notice published in the Official Gazette, appoint another day within one month after the declaration of results to repeat the poll and referendum procedures shall commence afresh.

Challenging results of referendum.

12.(1) A registered voter shall only be allowed to file a petition to the High Court challenging referendum results if he:-

(a) obtained at least signatures of not less than ten percent of the total number of voters from each region; and

(b) deposits Three Million Tanzania Shillings to the High Court as security for cost.

(2) A petition under subsection (1) of this section shall be in the form as may be prescribed by the Chief Justice and shall be lodged in the High Court within thirty days after the declaration of referendum results.

(3) The High Court presided by three Judges shall inquire into and determine the petition and declare its finding not later than thirty days from the date on which the petition is filed.

(4) After due inquiry of the petition, the High Court may either:

(a) dismiss the petition; or

(b) declare the results to be incorrect and declare the correct results; or

(c) order the Commission to repeat the polling in any particular place or places; or

(d) annul the referendum results and order a new referendum to be held.

(5) The decision of the High Court shall not be subject to appeal to the Court of Appeal of Tanzania.



(6) The Chief Justice may from time to time by notice published in the Official Gazette, review or amend the amount of deposit as security for cost.

PART FOUR GENERAL PROVISIONS

No person required to state how he voted.

13. A person who has voted at a referendum shall not in any proceedings, whether brought under this Act or otherwise, be required to state how he has voted.

Prohibition of incitement to public disorder at a referendum.

14.(1) A person shall not, while canvassing in a referendum, use any language which is defamatory or which constitutes incitement to public disorder, hatred or violence.

(2) A person who contravenes the provisions of sub section (1) of this section, commits an offence and upon conviction shall be liable to a fine of not less than three million shillings and not more than ten million shillings or imprisonment for a term of not less than one year and not more than five years or both such fine and imprisonment.

Cost of referendum.

15. The cost of conducting referendum shall be paid out of the Consolidated Fund.

General directions.

16. The Commission may, subject to the provisions of this Act, issue directions of a general or specific character to the Referendum Officers in relations to conduct and for the purpose of better carrying out the referendum.

Application of Election Act.

17.(1) Without prejudice to the provisions of this Act, the Election Act and its Regulations may, whenever they become relevant to the provisions of this Act, be applied.

(2) The Commission may, by notice published in the Official Gazette, adopt the application of any provision of the Election Act or its Regulations for the purpose of referendum.

(3) In the event of conflict between this Act and any provisions of the Election Act, this Act shall prevail.



Offences and penalties.

18. Any person who contravenes the provisions of this Act and any adopted provisions of the Election Act or Regulations made under it, commits an offence and upon conviction shall be liable to the same penalty provided thereof, but if there is no specific penalty provided, be imprisonment for a term of not less than three months and not more than one year.

Regulations.

19.(1) The Commission may, make regulations providing for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1) of this section, the Commission may, make regulations providing for all or any of the following matters:

- (a) the establishment of polling stations;
- (b) the equipment and facilities to be provided at polling stations;
- (c) the manner and procedure of voting at a referendum;
- (d) the manner of ascertaining the identity of persons wishing to vote at a referendum, and whether such persons are qualified to vote;
- (e) the manner in which persons with disability may vote at a referendum;
- (f) voting by persons employed on referendum duties on the day of a referendum;
- (g) the maintenance of secrecy at a referendum;
- (h) the postponement of, adjournment of and extension of time for a poll in case of riot or violence at a referendum;
- (i) the administering of oaths or affirmations by referendum officers in respect of such matters as may be prescribed;
- (j) the procedure to be followed at the conclusion of a poll in a referendum;
- (k) the procedure for counting votes in a referendum and the circumstances in which votes in a referendum may be rejected by a polling officer as invalid;



- (l) the declaration, notification and publication of the results of a referendum;
- (m) the custody and disposal of ballot papers, records, documents or other things relating to the conduct of a referendum;
- (n) the forms and records to be used for any of the purposes of this Act.

SCHEDULE
ORDER FOR REFERENDUM
[Made under section 3(1)]

To the Chairman of the Zanzibar Electoral Commission.

IN EXERCISE of the powers conferred upon me under section 3(1) of the Referendum Act of 2010, I,, **President of Zanzibar and Chairman of the Revolutionary Council**, do hereby command you to cause to be held a referendum to determine

[Set out the text of the question or issue to be decided at a referendum]

That, the said Referendum be held on day of, 20....

SIGNED and **SEALED** by the Seal of the President this..... day of, 20....

[Sgd]

PRESIDENT OF ZANZIBAR

AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL.

PASSED in the House of Representatives of Zanzibar on 30th day of March, 2010.

{ **IBRAHIM MZEE IBRAHIM** }

CLERK OF THE HOUSE OF REPRESENTATIVES
ZANZIBAR