



**AN ACT TO ESTABLISH BUSINESS LICENSING REGULATORY SYSTEM
ACT NO 13 OF 2013**

SECTIONS

TITLE

**PART I
PRELIMINARY PROVISIONS**

1. Short title Commencement
2. Application
3. Interpretation

**PART II
ESTABLISHMENT OF THE BUSINESS LICENSING REGULATORY
SYSTEM COUNCIL**

4. Business Licensing Regulatory System Council
5. The Functions of the Council
6. Power of the Council
7. Power of the Council to hold Enquires
8. Member of the Council
9. Tenure of the Office
10. Meetings of the Council
11. Remuneration of Council Members
12. Vacancy in Office of Council Member
13. Declaration of Interest

**PART III
ADMINISTRATION**

14. Secretariat of the Council
15. Function of the Secretariat
16. Executive Secretariat of the Council
17. Function of the Executive of the Council
18. Council Staff
19. Strategic Plan and reporting

**PART IV
PRINCIPLES OF REGULATION BUSSINESS LICENSING**

20. Principles of issuing Licenses
21. Licensing Authorities authorized to issue Licenses, Permits and Authorizations
22. Providing and approval of Licenses, Permit and Authorizations by local authority.



23. Duty of Licensing Authorities to Provide Guidance and Assistance
24. Prompt handling of Applications and enquiries
25. National Register of Licenses, Permit and Authorizations
26. Principles of Equality
27. Principles of proportionality
28. Right of applicant to be heard
29. Notices
30. Notification of application or appeal being processed
31. Right to information
32. Restriction of denial of Right to Information
33. Notification of decisions
34. Statement of reasons

PART V PROCEDURES ON GRANTING AND CANCELATION LICENSES

35. Application procedures
36. Terms and conditions of Licenses
37. Consideration of application
38. Attendance at a meeting of the Licensing Authority by the Applicant or his representatives
39. Licensing Process
40. Issuance of License
41. Duration of Licenses, Permit and Authorization.
42. Fees
43. Transfer of Licenses, Permit and Authorizations.
44. Register of application and decision
45. Suspension and cancellation of a license, permits or authorization
46. Inspectors
47. Liability of Inspectors
48. Carvassing
49. Penalties
50. Appeal.

PART VI FINANCIAL PROVISIONS

51. Sources of Funds
52. Expenditure and budget
53. Account and audits



**PART VII
GENERAL PROVISIONS**

- 54. Directives of the Minister
- 55. Offences by Body Corporate
- 56. Regulations



ACT NO 13 OF 2013

I ASSENT

(DR. ALI MOHAMED SHEIN)
PRESIDENT OF ZANZIBAR
AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

13th February, 2014

AN ACT TO ESTABLISH BUSINESS LICENSING REGULATORY SYSTEM
AND TO PROVIDE FOR OTHER MATTERS RELATED THEREAFTER AND
INCIDENTAL THERETO

ENACTED By The House of Representatives of Zanzibar

PART I
PRELIMINARY PROVISIONS

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| Short Title and Commencement. | 1. This Act may be cited as the Business Licensing Regulatory System Act, 2013 and shall come into operation after being assented to by the President. |
| Application. | 2. This Act shall apply to any of business or commercial relations and activities in Zanzibar |
| Interpretation. | 3. In this Act unless the context otherwise requires:-
"Adult" means an individual who is 18 years of age or above;
"Agent" means a person whose job is to act for, or manage the affairs of, other people in business
"Affidavit" means, in relation to a person allowed by law, to affirm by statutory declaration;
"Associate", for the purposes of section 29, a person is an associate of an individual if that person is: |



- (a) the individual's husband or wife;
- (b) a relative of the individual, or
- (c) the husband or wife of a relative of the individual, or
- (d) in partnership with the individual or the individual's husband or wife or a relative of the individual;
- (e) in the case of a body corporate, is a controller of it or if that person and persons who are his associates together are controllers of it.

"Bankrupt" and "bankruptcy" include respectively insolvent and insolvency within the meaning of the Bankruptcy Decree Chapter 20;

"Business" includes any form of trade, profession or occupation or commercial activity;

"Calendar month" means a period starting at the beginning of any day of one of the 12 named months and ending:

- (a) immediately before the beginning of the corresponding day of the next named month; or
- (b) if there is no such corresponding day at the end of the next named month:

"Commercial activity" is the provision of goods and, or, services in exchange for payment;

"Commercial enterprise" is the provision of goods and, or, services on a regular basis by a person engaged in business, in exchange for payment;

"Council" means the Business Licensing Regulatory Reform Council established under section 4 of this Act;

"Creditors' voluntary winding up" has the meaning assigned to it by the Insolvency Decree cap. 20;

"Demerit scheme" means a system devised to discourage and penalise unacceptable behavior;

"Document" means any record of information and includes:



- (a) any paper or other material on which there is writing; or
- (b) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for a person qualified to interpret them; or
- (c) any computer, disc, tape or other article or any material from which audio/visio images, writings or messages are capable of being reproduced, with or without the aid of another article or device;
- (d) a map, plan, drawing or photograph.

"Electronic communication" means:

- (a) a communication of information in the form of data, text or images by means of guided or unguided electromagnetic energy, or both; or
- (b) a communication of information in the form of audio/video by means of guided or unguided electromagnetic energy, or
- (c) both, where the audio/video is processed at its destination by an automated voice recognition system.

"Executive Secretary" means the Executive Secretary of the Council appointed under section 16 of this Act;

"Foreign country" means a country (whether or not an independent sovereign state) outside the United Republic of Tanzania.

"Gazette" means the Official Gazette of the Revolutionary Government of Zanzibar.

"Government" means the Revolutionary Government of Zanzibar.

"Inspector" means a person appointed under section 46 of this Act.

"Legislation" includes regulations and bylaws.

"License" means a legal permission from the government or other authorities to carry on some business or profession from the provision of any legislation.

"Local Government" means the administration of civic affairs of a city, town, or District by its inhabitants rather than by state or a country at large.

"Licensing Authority" means any person or body with statutory authority to issue licences, permits and, or, authorisation in respect of business activity in any sector of the economy.



"Licensing principles" means the principles established under section 20 of this Act;

"Licensing system" includes the system governing licences, permits, authorisation and other mechanisms of state control over business activities;

"Local authorities" means the municipality, district councils and town councils.

"Minister" means the Minister responsible for Trade

"Party" includes an individual or a body politic or corporate.

"Permit" means a legal permission to carry business.

"Person" means individual person or a non-natural person including a body politic or corporate.

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

"Property" means any legal or equitable estate or interest, whether present or future, vested or contingent, or tangible or intangible, in real or personal property of any description, including money and things in action.

"Relative" means a brother, sister, uncle, aunt, nephew, niece, lineal ancestor or lineal descendant, step-child or adopted child of a person.

"Working day" means a day that is not:

- (a) a Saturday or Sunday; or
- (b) a public holiday or special holiday in the place in which any relevant act is to be or may be done.

PART II ESTABLISHMENT OF THE BUSINESS LICENSING REGULATORY SYSTEM COUNCIL

Business
Licensing
Regulatory
System Council.

4.(1) There is hereby established a Business Licensing Regulatory System Council.

(2) The Council shall be a body corporate which has the right to sue and being sued on its own name, and shall have a common seal.

(3) The common seal of the Council shall not be affixed to any instrument or document except as authorized by the Council.



The Functions
of the Council.

5.(1) The Council shall perform the following functions:

- (a) to effectively implement and operate the national licensing system.
- (b) to develop policy about, and administer licensing, permits and authorisations system;
- (c) to review all existing requirements to hold a licence, permit or authorisation to set up or continue in business or to engage in any particular commercial activity and to issue directives to the relevant authority for the removal of any such requirements that do not meet the criteria under section 20(1) and (2) of this Act.
- (d) to review all proposals to introduce requirements to hold a licence, permit or authorisation to set up or continue in business or to engage in any particular commercial activity and to issue directives to the relevant authority as to whether such requirements do or do not meet the criteria under section 20(1) and (2) of this Act.
- (e) to co-operate with any entity reviewing the national licensing system or system of business regulation or any aspect thereof
- (f) to liaise with other research bodies within and outside Zanzibar carrying out comparable studies, research and evaluation;
- (g) To provide advice to the relevant authority about matters relating business regulation;
- (h) to give effect to policy directives and other decisions made by the Government in relations to business licensing system;
- (i) to advise the Government on matters arising out of the reviews undertaken under subsection 1 (c) of this section;
- (j) to review and fix fees payable for licences, permits or authorisations approved under this Act;
- (k) to keep and maintain publicly accessible registers of the licences, permits and authorisations required for business activities;
- (l) to develop measures and means for assessing its performance and to report to the Government;
- (m) to carry out research and evaluations relating to business licencing, permits and authorizations;



- (n) to liaise with licensing authorities in a way that is transparent and provides for the sharing of information.

(2) In exercising its functions, the Council shall act consistently with the objectives of the national licensing policy of the Government.

Powers of the Council.

6.(1) The powers of the Council shall be:-

- (a) to require any licensing authority or any person to provide it with such information as it may require in the performance of its functions.
- (b) to give directives to any licensing authority about the policies to be applied by the licensing authority in exercise of its functions as a licensing authority;
- (c) to do all such things as appear to be necessary, desirable or expedient for the performance of its functions; and
- (d) to undertake reviews of legislation, including draft legislation, and develop and review policy matters relating to licensing, permits and authorisations and other matters relating to the regulation of businesses and commercial activities;

(2) Notwithstanding the provisions of subsection 1(b) of this section, the Council shall not give a directive to a licensing authority about:-

- (a) a particular person; or
- (b) a particular application; or
- (c) a particular disciplinary proceeding or disciplinary action.

(3) In exercising its functions in relation to reviewing legislation or developing or reviewing policy matters about licensing, permits and authorisations or other aspects of business regulation, the Council shall, to the extent that it considers reasonable in the circumstances, consult:-

- (i) stakeholders from relevant occupations or engaged in activities that are or likely to be the subject of licence, permits or authorization requirements; and
- (ii) the business community.

Powers of the Council to Hold Enquires.

7.(1) The Council may, on its own initiative, or as directed by the Minister, carry out a review of the powers, procedures and practice of any licensing authority in respect of the issue of licences, permits or authorisation or in respect of its obligations under this Act.



(2) It is an offence for the official or member of staff of a licensing authority to obstruct the Council in carrying out its review under this section.

Member of the Council.

8.(1) The Council shall consist of the following members:

- (a) The Chairperson who shall be appointed by the President and who must hold at least a University Degree in Economics, or Business Administration, or Law and with at least seven years of experience.
- (b) The Minister, in consultation with relevant institutions, shall appoint:
 - (i) A member from Ministry responsible for Finance;
 - (ii) A member from Ministry responsible for Local Authority;
 - (iii) A member from Ministry responsible for Trade;
 - (iv) A member from Ministry responsible for Justice;
 - (v) A member from Ministry responsible for Tourism;
 - (vi) Two members from Zanzibar National Chamber of Commerce, Industry and Agriculture; and
 - (vii) A member from civil society dealing with Tourism.
- (c) The Minister, shall appoint three other members in consideration to their distinguished expertise, knowledge or experience in economics, finance, law, environmental management, engineering, health or any other relevant field of business

(2) In addition to those appointed under subsection (1) of this section, the Executive Secretary, shall attend all council meetings as an ex officio member.

(3) The council may co-opt any specialized technical expert to provide advice for proper performance of the functions of the council

Tenure of the Office.

9. Members of the Council other than ex-officio member shall hold office for a term of three years and may be eligible for re-appointment.

Meetings of the Council.

10.(1) The Council shall meet quarterly in every year, but may at any time if need be, call and convene a meeting.

(2) The Council shall appoint one of its member to be a Vice Chairman.

(3) The quorum of any meeting of the Council shall be more than half of members of the Council.



(4) All meetings of the Council shall be presided by the Chairman and, in his absence, the Vice Chairman shall preside the meeting.

(5) The Chairperson or presiding member shall have a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

(6) A decision of the Council shall not be invalidated by any defect or irregularity in the appointment of any member of the Council.

(7) Subject to other provisions of this Act, the Council shall regulate its own proceedings.

Remuneration of Council Members.

11. Members of the Council shall be paid such remuneration and allowances as the Minister responsible for Public Services may determine.

Vacancy in Office of a Council Member.

12.(1) The office of a member becomes vacant if the member:

- (a) completes a term of office; or
- (b) resigns the office by signed notice given to the appointing authority; or
- (c) is removed from office by the appointing authority under this section; or
- (d) is absent, without leave first being granted by the Council, from 3 or more consecutive ordinary meetings of the Council of which reasonable notice has been given to the member personally, by post or electronic communication; or
- (e) dies.

(2) The appointing authority may remove a member from office if:

- (a) the member who has been convicted of an offence (whether in Zanzibar, the United Republic of Tanzania or elsewhere) that, in the opinion of the appointing authority, renders the member unfit to continue to hold office;
- (b) the member:
 - (i) has been declared bankrupt by the court; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) makes an assignment of member's remuneration for their benefit.



(3) If the office of a member becomes vacant because the member has completed the term of office, the member is taken to continue to be a member during that vacancy until the date on which the vacancy is filled, whether by re-appointment of the member or appointment of a successor to the member.

(4) Subsection (3) of this section shall cease to apply to the member if:

- (a) the member resigns the member's office by signed notice given to the appointing authority; or
- (b) the appointing authority decides the services of the member are no longer required.

(5) The maximum period for which a member is taken to continue to be a member under this section after completion of the member's term of office is 6 months.

(6) Appointing authority under section means President or Minister.

Declaration of Interest.

13. Any member of the Council, who has an interest in a matter which is being discussed by the Council shall declare his interest and shall not participate in any meeting of the Council at which that matter is being considered.

PART III ADMINISTRATION

Secretariat of the Council.

14. There shall be a Secretariat of the Council to be headed by Executive Secretary, which shall serve as technical and administrative organ of the Council.

Functions of the Secretariat.

15.(1) Subject to the provisions of this Act, the Secretariat as part of the Council shall be responsible to undertake the work assigned to it by the Council

(2) The Secretariat shall implement and monitor policy, regulation and directives of the Council.

(3) The Secretariat shall be the custodian of the common seal of the Council and shall carry out day to day functions of the Council.

Executive Secretary of the Council.

16.(1) There shall be an Executive Secretary of the Council who shall be appointed by the President.

(2) A person shall qualify to be appointed as the Executive Secretary if he:

- (a) Is a holder of at least University Degree in Business Administration or Business Management or Economics or Laws or Public Administration from recognised University;



- (b) Has working experience of at least five years in any of the above field; and
- (c) Has not been convicted of any offence involving moral turpitude or corruption.
- Functions of the Executive of the Council.
- 17.** The Executive Secretary shall be responsible for:
- (a) providing effective strategic leadership of the Council;
 - (b) formulating the Council's strategy for discharging its duties;
 - (c) Presenting the views of the Council to the Government and to the general public.
 - (d) encouraging the Council to adopt and follow good practice in its governance conduct of the Council's business.
 - (e) Ensuring high standards of propriety amongst the supporting staff;
 - (f) ensuring the effective use of staff and other resources;
 - (g) ensuring that the Council meets at appropriate intervals and minutes of the meetings and reports submitted to the Government, accurate recorded decisions taken and, where appropriate, the views of individual Council members.
- Council Staff.
- 18.** The Executive Secretary, with the approval of the Council, shall employ such staff, and on such terms and conditions and remuneration, as specified in Public Services Act No.2 of 2011 as may be amended from time to time.
- Strategic plan and Reporting.
- 19.**(1) The Council shall prepare the Strategic Plan and submit to the Minister, for approval, within six months after the commencement of this Act
- (2) The Council shall submit the subsequent strategic plans to the Minister, not later than 6 months, before the preceding plan is due to expire.
- (3) The Council, within 3 months after the end of each financial year, shall submit to the Minister an annual performance report for that year.
- (4) The annual performance report shall detail the business conducted by the Council during the relevant period.

PART IV PRINCIPLES OF REGULATING BUSINESS LICENSING

- Principles of Issuing Licences.
- 20.**(1) There shall be principles of regulating the issuance of business licenses, permits and authorizations to be observed by licensing authorities which shall inter alia include:



- (a) establishment of uniform procedures and criteria for licensing, permits and authorisations;
- (b) establishment of a transparent and equitable system;
- (c) establishment of an effective, efficient and low-cost system;
- (d) payment of minimal and clearly fixed fees and imposed for the sole purpose of defraying the administrative costs in respect of the licence, permit or authorisation;
- (e) ensuring the legitimacy of procedures applicable to licences, permits or authorisations;
- (f) simplification of the procedures referred to in subsection (1)(e) of this section;
- (g) exchange of information among licensing authorities where possible and information possessed by one licensing or regulatory authority is not required to be provided again by applicants for licences, permits or authorisations to other licensing authorities;
- (h) requirement to hold a licence, permit or authorisation shall:-
 - (i) solely be for the purpose of regulating business;
 - (ii) not restrict competition.
- (i) licences, permits or authorisations shall be valid and for a conveniently long duration;
- (j) facilitation of a consistent skill and knowledge base for licensed occupations or those occupations requiring a permit or authorisation;
- (k) avoidance of bureaucratic inertia and bureaucratic discretion;
- (l) ensuring that effective coordination exists between the Council and the licensing authorities;
- (m) establishment of a positive compliance system;
- (n) avoidance of imposing undue burdens on small and medium enterprises;
- (o) establishment of uniform standards in respect of violations of licence, permits or authorisation requirements;
- (p) maintaining data protection and commercial confidentiality for all information gathered under the system except where disclosure is required by law.



- (q) creating a supportive and facilitative environment for those required by law to hold a licence, permit or other authorisation;
- (r) maintaining a system that is free from bribery and corruption.

(2) Government control over the commercial activities of persons in Zanzibar through the requirement to have a licence or permit or to obtain any authorisation by a licensing authority shall only be exercised where an activity or enterprise may result in or give rise to:

- (a) detriment to the public interest;
- (b) detriment to national security;
- (c) breach of international obligations;
- (d) breach of:
 - (i) quality control provisions;
 - (ii) quality assurance provisions;
 - (iii) safety provisions; or
 - (iv) health or hygiene provisions;
- (e) professional incompetence;
- (f) serious detriment to the interests of consumers that cannot be effectively prevented by other legal mechanisms;
- (g) unfair trading or unfair competition that cannot be effectively prevented by other legal mechanisms;
- (h) depletion of natural resources or unsustainable use thereof;
- (i) depletion of cultural heritage or unsustainable use thereof;
- (j) breach of public morality; or
- (k) some other substantial reasons.

(3) The requirement to hold a licence, permit or to obtain an authorisation shall be legally enforceable where, in the opinion of the Council, that requirement is effective and proportionate to avoid the detriments and breaches set out in subsection (2) of this section.

(4) Any new legislations, regulations or bylaws, made after the commencement of this Act, requiring a person, category of persons or activity to acquire a licence, permit or other authorisation from licensing authority shall be null and void unless conforms with this Act.



(5) A licensing authority proposing to introduce new provisions under subsection 3 of this section shall:

- (a) give notice in writing of that intention to the Executive Secretary;
- (b) hold public consultations so as to ascertain the views of the persons to be affected by the intended action;
- (c) submit to the Executive Secretary a report of the consultations together with an assessment of the impact on the business activity that the imposition is proposed to apply.

(6) The Executive Secretary shall scrutinize the proposal submitted under subsection (4) of this section and compliance with subsection (5) of this section and make a recommendation to the Council as to whether the proposal has complied with criteria set out in subsection (2) of this section, should be amended, approved or rejected.

(7) The Executive Secretary, on reviewing the provisions submitted under subsection 6 shall make a recommendation to the Council and where they do not meet the criteria set out in subsection (2) and (3) of this section or other requirements laid down by the Council, the requirement to hold such a licence, permit or authorisation shall expire on the date fixed by the Council.

(8) The Council shall only approve provisions for a licence, permit or other authorisation where it meets one or more of the criteria set out in subsection (2) of this section.

Licensing Authorities Authorised to Issue Licences, Permits and Authorizations.

21.(1) The Council shall issue a list and address of authorised licensing authorities and this shall be published in the Gazette.

(2) The list referred to in subsection (1) of this section shall be updated from time to time.

(3) Any licensing authority that is not included in the list referred to in subsection (1) of this section shall not require any person to hold a licence, permit, authorisation, permission or to pay any fee to establish a business or engage in commercial transactions.

(4) All authorised licensing authorities shall cooperate with the Council in accordance with the provisions of this Act.

Providing and approval of Licences, Permits and Authorizations by local authority.

22.(1) All bylaws, licences, permits, authorisation, fees and other charges imposed by any local authority shall be sent to the Council for consultation and approval within 120 days of the commencement of this Act notwithstanding that an approval may have been given by the Minister responsible for Local Authority in respect of such bylaws, licences fees, permits or other charges prior to the commencement of this Act.

(2) The Executive Secretary shall scrutinise the provisions provided under subsection 1 of this section and shall make a recommendation to the Council as to whether the provisions should be amended, approved or rejected.



(3) The Council shall issue a determination as to whether the bylaw, licence, permit, authorisation, fee or other charge meet the criteria set out in section 20(2) of this Act and therefore issue its approval.

(4) Where approval has been granted, the local authority shall be designated a licensing authority for the purposes of this Act and shall comply with the requirements of this Act applicable to licensing authorities.

(5) Where approval is not granted under subsection (2) the local authority shall cease to apply the relevant bylaw and shall not issue licences, permits or authorisations or charge fees or other payments not approved by the Council.

Duty of Licensing Authorities to Provide Guidance and Assistance.

23.(1) Any licensing authority that requires, by law, any person who is engaged in business or who engages in commercial transactions to hold a licence, permit or authorisation shall provide an easy-to-read guide for applicants and such guide shall be provided to the Council for consultation and approval within 120 days of the commencement of this Act in the case of existing licences, permits and authorisations and together with submissions for approval of new licences, permits or authorisations under the provisions of subsection 20 (4) of this Act.

(2) A licensing authority shall provide applicants for licence, permit or authorisation with the necessary assistance and guidance in order to comply with any legal or administrative requirement.

(3) If an authority receives a written application concerning a matter outside its competence it shall forward the application to the proper authority as immediate as possible.

Prompt Handling of Applications and Enquiries.

24.(1) Applications shall be processed or answered as quickly as possible, and in any case should not exceed thirty (30) days.

(2) When an enquiry is made, this shall be answered at the earliest possible opportunity.

(3) If the enquiry cannot be addressed immediately the licensing authority shall give a deadline for the submission of an answer.

(4) When it becomes evident that a decision on an application will be delayed, the applicant shall be informed and provided with the reasons for the delay and the date when a decision is to be expected.

(5) If there is undue delay in dealing with an application, the applicant may make a complaint to the Council within fourteen days (14) days, in addition to any appeal mechanism provided for in the relevant legislation.

National Register of Licences, Permits and Authorizations.

25.(1) The Council shall keep the national register of all valid requirements to hold a licence, permit or to obtain an authorisation in order to engage in business in or to carry out a commercial transaction.

(2) Without limiting subsection (1) of this section, Minister may provide regulations for:



- (a) the information that must be collected and recorded by the Council about licences, permits and authorisations;
- (b) the information that is to be included in the national register or registers;
- (c) the way the national register is, or are, to be kept; and
- (d) the inspection of the national register by members of the public; and
- (e) the publication of information included in national register

Principle of Equality.

26.(1) In processing applications, a licensing authority shall make every effort to ensure that it acts in a consistent manner and observes the rule of equal treatment.

(2) The applicant shall not be discriminated against on the grounds of their ethnic origin, sex, color, nationality, religion, political conviction, family, disability or other comparable considerations.

Principle of Proportionality.

27. A licensing authority shall reach an adverse decision only when the lawful purpose sought cannot be attained by less stringent means and in such a case, care shall be taken not to go further than necessary.

Right of Applicant to be Heard.

28. An applicant for a licence, permit or authorisation shall be given the opportunity to express his views on the application before a licensing authority reaches a final decision thereon, unless his or her reasoned position on the matter already appears in the documentation submitted with the application, or it is clearly unnecessary for him or her to do so.

Notices.

29.(1) where a licensing authority is dissatisfied with any matter in connection with:

- (a) an application made for a licence, permit or authorisation;
- (b) a business being carried on, or which has been carried on, by a licensee, permit holder or authorised person or by an associate or a former associate of such person;
- (c) any conduct not covered by paragraph (a) or (b) of a licensee, permit holder or authorized person or of an associate or a former associate of that person.

(2) In the case of subsection (1)(a) of this section, the licensing authority shall provide the applicant with a refusal notice and provide the applicant with an opportunity to address the issues giving rise to the refusal and, or, to be heard in accordance with section 28 as to why the application should be granted.

(3) In the case of subsection (1)(b) or (c) of this section, the licensing authority may by notice to the licensee, permit holder or authorised person require him to do or not to do (or to cease doing) anything specified in the notice for purposes connected with:



- (a) addressing the matter with which the licensing authority is dissatisfied; or
- (b) securing that matters of the same or a similar kind do not arise.

(4) A requirement imposed under this section on a licensee, permit holder or authorised person shall only relate to a business which he is carrying on, or is proposing to carry on, under the licence, permit or authorisation of which he is a holder.

(5) Such a requirement may be framed by reference to a named person other than the licensee, permit holder or authorised person.

(6) For the purposes of subsection (1) of this section, it is immaterial whether the matter with which the licensing authority is dissatisfied arose before or after the licence, permit or authorisation was granted.

Notification of
Application or
Appeal Being
Processed.

30. If an applicant has been given the right to express his views on its subject-matter pursuant to section 28, a licensing authority shall notify him within 14 days the time, place and date of which the application or appeal comes up for determination .

Right to
Information.

31.(1) An applicant for a licence, permit or authorisation or an appellant in respect thereof shall have the right to acquaint himself or herself with the documentation and other material bearing on the case.

(2) If a applicant asks for duplicates or photocopies thereof he shall be given them unless the documents are of such nature or so large that presents a considerable difficulty.

(3) The Executive Secretary may determine, by a special system of charges, the amount payable for duplicates and photocopies made pursuant to this section.

(4) The provisions of this section shall not apply to the investigation and conduct of criminal cases, except that the defendant in such proceedings may, however, demand access to the case file after the case has been discontinued or concluded by other means.

(5) A applicant's right of access to material under this section shall not apply to:

- (a) correspondence between the authorities and experts for use in court cases or relating to the decision whether to take a case to court.
- (b) working papers prepared for its own use by a licensing authority.

Restriction and
denial of Right to
Information.

32.(1) A licensing authority may restrict the access of an applicant or appellant to material if the advantage to be gained by the applicant from use of the material is deemed to be outweighed by a greater interest, public or private.

(2) A decision by a licensing authority to deny an applicant or appellant access to the case material or to some extent to restrict such access shall be notified to the party with reasons given in accordance with section 34 of this Act.



(3) A denial or restriction of access to case material may be complained of to the competent public authority and shall be lodged within 14 days of the party having been notified of the decision.

Notification of Decisions.

33.(1) Once a licensing authority has reached a decision on a request for information under section 31 the applicant or appellant shall be notified thereof within seven (7) days.

(2) A decision shall be binding upon notification.

(3) A written notification of a decision, unaccompanied by a statement of reasons, shall give guidance as to:

- (a) the applicant or appellant's right to be given reasons for the decision;
- (b) a right of complaint, when applicable, the relevant time limit and cost, as well as where to lodge the complaint.

Statement of Reasons.

34.(1) When required by this Act, or by other legislation to provide reasons for decisions, a licensing authority shall ensure that in the statement of reason(s) reference is made to the rules of procedure on which the authority's decision is based.

(2) When a decision of a licensing authority is based on an assessment of the facts, the statement of reasons required by this Act or other legislation shall contain the main opinions deciding the outcome of that assessment.

(3) When a licensing authority is legally required to provide a statement of reasons, that statement shall contain a brief description of the most important facts influencing the decision in a case.

(4) A statement of reasons may be limited as regards material to which applicant has been denied a right of access, pursuant to sections 32 and 33 of this act.

PART V PROCEDURES ON GRANTING AND CANCELATION LICENCES

Application Procedures.

35.(1) An application to a licensing authority for a grant, renewal or transfer of a licence, permit or authorization shall be in such form as may be prescribed by the licensing authority.

(2) The application shall be completed and signed by the applicant or his agent, and shall be submitted to the authority together with:

- (a) proof of completion of all formalities required and a certified copy of the business registration, if applicable, from the relevant public authority or the business registration number;
- (b) where applicable, proof of membership of the relevant professional association or of qualifications and, or, training at an accredited institution;



- (c) a Police Clearance Certificate.
- (d) proof that the applicant is not bankrupt; and
- (e) Valid certificate of compliance from the tax authorities.

(3) A licensing authority may accept submission of an application or of any certificate or document required under this section by electronic means and accompanied by an electronic signature.

Terms and
Conditions of
Licences.

36.(1) Where there are special types of activities subject to licensing, permits or authorisation which requires special technical conditions, then specific technical terms and conditions may be stipulated to perform such types of activities subject to licensing, permits or authorisation.

(2) The technical terms and conditions relating to the type of activities subject to licensing, permits or authorisations shall be stipulated by law or other legal acts.

Consideration of
Applications.

37.(1) Where the licensing authority is satisfied that the applicant has met all the relevant criteria, it must issue the licence, permit or authorisation.

(2) Where the licensing authority before issuing the licence deems it appropriate, the application shall be referred to the relevant Minister for consideration.

Attendance at a
Meeting of the
Licensing
Authority by the
Applicant or his
Representative.

38.(1) The licensing authority may issue a notice to a new applicant or his representative to attend a meeting at which the application is to be considered.

(2) The licensing authority may decline to consider an application if the applicant or his representative, without any prior notice, does not attend a meeting at which the application is to be considered.

(3) Notwithstanding the provisions in subsection (1) of this section, an applicant for the renewal or permanent transfer of a licence, permit or authorisation or who is making an application in respect of a new branch office need not attend a meeting at which his application is being considered unless the applicant has been notified by the licensing authority to attend.

(4) The licensing authority shall not refuse an application for the renewal or transfer of a licence, permit or authorisation without hearing the applicant or his representative unless the applicant, having been cited by the licensing authority to attend the meeting at which his application is being considered, fails to attend such meeting.

Licensing
Process.

39.(1) It shall be the responsibility of the applicant for a licence, permit or authorisation to obtain any other permit, licence or authorization required under any other law, or by other licensing authorities.

(2) A licensing authority shall from the outset facilitate applications by providing all relative information to enable applicants to comply with subsection (1) of this section and this information shall be contained in the guide required by section 23 of this Act.



issuance of Licences.

40.(1) The licensing authority shall grant and deliver a licence, permit or authorization to every person who comply with the provision of relevant legislation.

(2) The licensing authority shall, when required, make out a duplicate of any licence, permit or authorisation issued by it under this section and shall certify such duplicate to be a true copy of the original licence, permit or authorisation and such duplicate, duly certified, shall be sufficient evidence of the facts contained therein and of the terms of the original licence, permit or authorisation.

Duration of Licences, Permits and Authorisations.

41.(1) A new licence, permit or authorisation shall come into effect on being granted by the licensing authority under section 40 of this Act.

(2) If an application is made for renewal of a licence, permit or authorisation, the licence, permit or authorisation in respect of which the application is made shall continue to have effect until the application for renewal is granted by the licensing authority or, if the application for renewal is refused, until the time within which an appeal may be made has elapsed or, if an appeal has been lodged, until the appeal has been abandoned or determined.

Fees.

42. The fees for grant, transfer or renewal of a licence, permit or authorisation charged by the licensing authority shall be laid down from time to time by the Council in a notice published in the Gazette.

Transfer of Licences, Permits and Authorisations.

43.(1) A licensing authority may, on receipt of an application in that regard, transfer to a new owner, or to the heirs or legatees of a deceased holder, a licence, permit or authorisation granted in relation to the premises and, or, business which was the subject of the succession in accordance with the provisions of the Business Entities Act No 12 of 2012 as may be amended from time to time.

(2) A licence, permit or authorisation transferred under the provisions of subsection (1) of this section shall have effect until the expiry of that licence, permit or authorisation.

(3) Where a licence, permit or authorisation has been transferred under this section to any person, the licensing authority shall, on payment of the appropriate fee, endorse on the licence, permit or authorisation a note of the transfer.

(4) Any licence, permit or authorisation transferred under this section shall be held subject to the conditions on which it was originally granted.

(5) Licences, permits or authorisations granted to individuals because of their personal skills, qualifications, experience or other personal aptitude are non-transferable.

Register of Application and Decisions.

44.(1) A licensing authority shall keep a register of applications for licences, permits and authorisations and shall enter in the register the decisions taken on the applications made.

(2) The register of applications, laid down in subsection (1) of this section, shall be available for inspection by any member of the public at times and places to be determined by the licensing authority.



Suspension and
Cancellation of a
Licence, Permit or
Authorisation.

45.(1) A licensing authority may suspend or cancel a licence, permit or authorisation on one of the following grounds:-

- (a) that the holder is no longer fit and proper to hold such a licence, permit or authorisation;
- (b) that the holder is in breach of the terms and conditions or other legal requirements applicable to that licence, permit or authorisation;
- (c) that the use of the premises in respect of which the licence, permit or authorisation is held is a threat to public health or safety;
- (d) that the premises in respect of which the licence, permit or authorisation applies no longer meets the standards laid down by the relevant legislation;
- (e) that the holder or his agent refused entry to a duly authorized inspector or to cooperate with an inspector as required by this Act and, or other legislation applicable to the licence, permit or authorisation.

(2) In considering a complaint under this section, the licensing authority may have regard to any misconduct on the part of the holder of the licence, permit or authorisation whether or not constituting a breach of the provisions of the relevant legislation, which in the opinion of the licensing authority has a bearing on his fitness to be the holder of such licence, permit or authorisation.

(3) Where the licensing authority decides to order the suspension of a licence, permit or authorisation, the suspension shall not take effect until the expiry of the time within which the holder may appeal or, if an appeal is lodged, until it has been determined or abandoned.

(4) Subsection (3) of this section shall not apply where immediate suspension is required in the interests of the health and safety of other persons or the general public.

(5) The period of suspension of a licence, permit or authorisation under this section shall be a fixed period not exceeding one year or the unexpired portion of the duration of the licence, permit or authorisation whichever is the less, and the effect of the suspension is that the licence, permit or authorisation shall cease to have effect during the period of the suspension.

Inspectors.

46.(1) A licensing authority may appoint inspectors to ensure compliance with the provisions of Act and related regulations and other laws relevant to the business or activity subject to licensing, permits or authorisation requirements or terms and conditions applicable thereunder.

(2) A licensing authority shall issue each inspector with an identity card that shall present on entry into any premises that are to be the subject of their inspection or to any person from whom they are entitled to obtain information under the provisions of this Act and related regulations or other legislations applicable to the licence, permit or authorisation.



(3) An inspector may:

- (a) enter, at reasonable times, any premises at which a business that is the subject of a licence, permit or authorisation is being conducted or at which any business, trade or profession is being conducted and which is subject to the provisions of this Act and any regulations made thereunder or to other laws applicable to the licence, permit or authorisation;
- (b) inspect the premises referred to in subsection (3)(a) of this section and conduct investigations or an audit of the facilities and services provided there during regular working hours and other reasonable times and within reasonable limits and in a reasonable manner;
- (c) take original or copies of documentation, including electronic documents,
- (d) where the business is in a serious breach of this Act, or any other Act, or where it poses a threat to public safety, order the closure of that business.

(4) In making his inspection and investigations under this Act or other applicable laws, the inspector may require the attendance and testimony of witnesses and the production of evidence.

(5) An inspector shall treat as confidential and not reveal any commercial secrets which may come to his knowledge in the course of executing his duties unless:-

- (a) the inspector is required to divulge this information by a Court of Law; or
- (b) the inspector is required to divulge this information as part of his work as an inspector.

(6) An inspector, who has a personal, pecuniary or direct interest that may prejudicially affect the consideration of any matter before him shall not inspect or supervise on that matter so as to avoid the possibility of prejudice.

(7) A person shall at reasonable times allow an inspector acting under this section, or exercising his powers under this Act and regulations access to premises and to documentation.

(8) A person who obstructs or prevents an inspector from carrying out his duties under this Act commits an offence.

Liability of
Inspectors

47.(1) No inspector, exercising powers conferred by this Act, shall be liable for anything done by him in good faith for the purposes of enforcing this Act and regulations made under it or otherwise acting in the course of duty.

(2) Any inspector, referred to in subsection (1) of this section who abuses his position or who causes unlawful damage, seizes property unlawfully or who breaches the confidentiality of information acquired by him in the course of his duties shall be guilty of an offence.



- Canvassing. **48.**(1) Any applicant for the grant, renewal or transfer of a licence, permit or authorisation who, either by himself or by another person at the instigation of the applicant, unduly attempts to influence the licensing authority, one or more of its officials or staff to support his application at any time before its consideration by a licensing authority, shall be guilty of an offence.
- (2) If the applicant is guilty of an offence under subsection (1) of this section, the licensing authority may refuse to consider the application made.
- Penalties. **49.** A licensing authority shall have the power to impose one or more of the following penalties on a person convicted of an offence under this Act:
- (a) a fine at the appropriate level on the scale of penalties laid down in a notice made by the Minister and published in the Gazette;
 - (b) an admonishment and warning;
 - (c) suspension of the licence, permit or authorisation;
 - (d) cancellation of the licence, permit or authorisation; and
 - (e) an order specifying the amount of compensation to be paid to a person or persons adversely affected as a result of the offence;
- Appeal. **50.**(1) Once a licensing authority has reached a decision on an application for a licence, permit or authorisation and notified it to the applicant, the applicant shall have the right of appeal against that decision in accordance with relevant legislation of the licensing authority.
- (2) Where a licensing authority suspends, restricts, revokes or cancels a licence, permit or authorisation or issues an order to the holder requiring him to refrain from some activity or to undertake certain remedial action, as provided for by law, the holder of the licence, permit or authorisation may appeal against that decision.
- (3) The grounds of appeal must be one of the following:
- (a) the decision was based on insufficient or wrong information as to the facts;
 - (b) the decision was based on circumstances which subsequently changed in a material way;
 - (c) the licensing authority erred in law;
 - (d) the licensing authority acted contrary to natural justice;
 - (e) the decision was beyond the powers of the licensing authority;
 - (f) the licensing authority was in breach of the provisions of this Act or regulations issued thereunder.



(4) An appeal shall be applied within twenty-one days from the date of notification of the decision to the person to whom it applies.

PART VI FINANCIAL PROVISIONS

Sources of
Funds.

51.(1) The funds and resources of the Council shall consists of:

- (a) Moneys appropriated by the House of representatives;
- (b) Moneys raised by way of lawful donations or grants;
- (c) Such sums of money or property which may become payable to or vested in the Council under this Act or any other written law.

(2) The Council may, in the discharge of its functions and in accordance with the terms and conditions upon which its funds may have been obtained or derived, charge to the fund all remunerations, allowances, salaries, working expenses and all other charges properly arising, including any necessary capital expenditure.

Expenditure and
budget.

52. (1) There shall be paid out of the fund all such sums of money required to defray the expenditure incurred by the Council in the exercise, discharge and performance of its functions and duties under this Act

(2) The Executive Secretary shall, not later than three months before the end of each financial year, prepare and submit to the Council for its approval, estimates of its income and expenditure for the next coming year, which, upon approval, shall be forwarded to the Minister.

(3) The Executive Secretary may at any time submit to the Council a supplementary estimate for its consideration and upon approval the Council shall notify the Minister.

(4) The Executive Secretary shall, at the end of each financial year, prepare a report of activities of the Council and submit that report including balance of the fund, to the Minister after approval by the Council

(5) The Minister shall submit the annual performance and financial accounts to the House of Representatives.

Accounts and
Audit.

53.(1) The Council shall cause to be made and kept the proper and complete books of accounts reflecting all incomes and expenditure of the Council.

(2) The Executive Secretary shall, subject to such directives from the Council, prepare in relation to the operations of the Council, in respect of each financial year, statement of accounts which shall include:

- (a) financial statement and statement of income and expenditure;
- (b) such other information in respect of financial affairs of the Council as required under the Public Finance Act.



(3) Within three months of closing of every financial year the accounts including the financial statement of the Council in respect of that financial year shall be submitted to the Controller and Auditor General or any Auditor recognized and approved by the Controller and Auditor General for auditing.

(4) The audited accounts shall be submitted to the Council and if adopted by the Council, shall be endorsed with a certificate that it has been so adopted

(5) As soon the accounts of the Council have been audited, and in any case not later than three months after the close of the financial year, the Council shall submit to the Minister a copy of the report on the statement made by the Auditor.

PART VII GENERAL PROVISIONS

Directives of the Minister.

54. The Minister may give to the Council directives of a general or specific nature in writing as to the exercise or performance of its functions and the Council shall give effect to such directives according to this Act.

Offences by Bodies Corporate.

55.(1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be prosecuted against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of its member in connection with his functions of management as if he were a director of the body corporate.

Regulations.

56.(1) The Minister may make regulations for the better implementation of this Act.

(2) The regulations may provide for the following:

- (a) the occupations, businesses or activities to which this Act is to apply;
- (b) the licensing, issue of permits or authorisations of persons engaged in business or commercial transactions;
- (c) other matters relating to licences including:
 - (i) applications for licences, permits or authorisations;
 - (ii) the requirements to be satisfied by persons to be eligible for a licence, permit or authorisation or to continue to hold a licence, permit or authorisation;



- (iii) the granting of licences, permits or authorisations;
- (iv) the renewal, variation or surrender of licences, permits or authorisations.
- (d) fees under this Act including:
 - (i) the fees to be paid for applications made under this Act for licences, permits or authorizations;
 - (ii) or the renewal or variation thereof;
 - (iii) the refunding of fees;
 - (iv) the waiver of fees;
 - (v) late fees and fees for dishonoured payments;
- (e) arrangements for the publication of fees;
- (f) the conduct of licensees, permit-holders or authorised persons, including the making and adoption of codes of practice applicable to them;
- (g) matters relating to compliance with and enforcement of this Act and the regulations, including, but not limited to:
 - (i) monitoring and auditing of licensees, permit holders and authorised persons and work undertaken by them;
 - (ii) complaints about licensees, permit holders and authorised persons or former licensees, permit holders and authorised persons;
 - (iii) the grounds on which licences, permits and authorisations are automatically suspended or cancelled and other matters relating to those suspensions or cancellations;
 - (iv) the establishment of a demerit point scheme for licensees, permit holders and authorized persons;
 - (v) other matters relating to disciplinary proceedings and disciplinary action.
- (h) matters relating to nominees for licences, permits or authorisations;
- (i) matters relating to directors and members of licensees, permit holders and authorised persons who are bodies corporate, including:
 - (i) the duties and obligations of directors and members;
 - (ii) matters relating to the liability of directors and members;
- (j) matters relating to persons who are employed or otherwise engaged by licensees, permit holders and authorised persons including:



- (i) the duties and obligations of licensees in relation to those persons;
 - (ii) the duties and obligations of those persons;
 - (iii) matters relating to vicarious liability for actions of those persons;
- (k) matters relating to persons who are receivers, managers or administrators appointed to carry out, wind up or otherwise administer or operate businesses conducted by licensees, permit holders and authorised persons or persons whose licences, permits or authorisations have been suspended or cancelled, including matters relating to the appointment of those persons and the obligations and responsibilities of those persons in carrying out, winding up or otherwise administering or operating the businesses;
- (l) matters relating to trust funds held by licensees, permit holders and authorised persons;
- (m) the payment of penalties and fines imposed under this Act, including who the penalties and fines are to be paid to;
- (n) the criteria or procedures to be used by the Council in developing policy about the national licensing system;
- (o) any other matter that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

PASSED by the House of Representatives on 11th day of October, 2013

(YAHYA KHAMIS HAMAD)

Clerk of the House of Representatives of Zanzibar