



THE SIXTH CONSTITUTIONAL AMENDMENT
ACT, 1992.

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ACT NO. 13 OF 1992

I ASSENT

Salmin Amour

SALMIN AMOUR
PRESIDENT OF ZANZIBAR
AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL.

10th March 1993.

AN ACT TO AMEND THE PROVISIONS OF THE
CONSTITUTION RELATING TO THE ELECTION
OF THE PRESIDENT OF ZANZIBAR AND MATTERS
CONNECTED THEREWITH.

ENACTED by the House of Representatives of
Zanzibar.

Short title
and
commencement.

1.(1) This Act may be cited as the Sixth
Constitutional Amendment Act, 1992, and shall be
read as one with the Constitution of Zanzibar, 1984.

(2) This Act shall come into operation on the
1st day of January, 1993.

Interpretation.

2. In this Act unless the context otherwise
requires -

"the Constitution" means the Constitution of
Zanzibar, 1984;

"Minister" means the Minister for the time being
responsible for legal affairs;

"Commission" means the Zanzibar Electoral
Commission.



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Amendment of
Section 26.

3. Section 26 of the Constitution is hereby amended by adding paragraph (d) as follows :-

"(d) is a member of and sponsored by a political party registered as such under the Political Parties Act, 1992."

Amendment of
Section 34.

4. Section 34 of the Constitution is amended by deleting subsection (2) thereof and substituting therefor the following new provisions :-

"(2) When an occasion arises for election of the President of Zanzibar, as provided for in the Constitution, every political party may, subject to the provisions of any relevant Act, submit to the Commission the name of its Presidential candidate.

(3) The names of the Presidential candidates shall be submitted to the Commission on the day and time and in the manner provided for in the Act enacted by the House of Representatives in that behalf, and no person shall be duly nominated as Presidential candidate unless his nomination is supported by such number of registered voters and in such a manner as may be provided for under the Act enacted by the House of Representatives.

(4) Where, upon expiry of the time specified for submission of the names of Presidential candidates, only one candidate is duly nominated, the Commission shall submit the said name to the electorates, who shall vote for or against the candidate, in accordance with this provision.

(5) Election of the President of Zanzibar shall be conducted on the day appointed by the Electoral Commission in accordance with the provision of any Act enacted by the House of Representatives.

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(6) All other matters in connection with the conduct of the Presidential election shall be in accordance with the provisions of any Act enacted by the House of Representatives for that purpose.

(7) Where a candidate is declared by the Commission as duly elected President under the provisions of this section, no court shall inquire on the validity of his election."

Adding new
section
36A.

5. The Constitution is hereby amended by adding section 36A immediately after section 36 of the Constitution as follows :-

"Power of
the
House of
Representatives
to impeach
the
President.

36A.(1) Notwithstanding the provisions of section 36 of the Constitution, the House of Representatives may pass a resolution to remove the President from office if a resolution to impeach the President is passed in accordance with the provisions of this section.

(2) Without prejudice to any provision of this section, no proposal to prefer charge to impeach the President shall be made unless there is allegation of violation of the Constitution by the President or that his conduct is prejudicial to the Union of Tanganyika and Zanzibar and no such proposal shall be made within twelve months after the same proposal being made and rejected by the House of Representatives.

(3) Without prejudice to the provisions of section 91(2) of the Constitution, no such power shall be exercised by the President while the House of Representatives is debating the impeachment of the President.

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(4) The House of Representatives shall not pass a resolution to impeach the President unless -

- (a) notice in writing, signed by not less than half of the members of the House of Representatives, specifying the charges against the President, proposing a formation of Special Committee of Inquiry to investigate on the said charges, is submitted to the Speaker;
- (b) the Speaker shall, at any time, upon receiving the said notice and upon being satisfied that the conditions of serving notice of the resolution have been fulfilled, call upon the House of Representatives, without debate, to vote on the resolution requesting for the formation of a Special Committee of Inquiry and where such resolution is passed by not less than two thirds of the members of the House of Representatives, the Speaker shall appoint the members of a Special Committee of Inquiry;
- (c) for the purpose of this section, a Special Committee of Inquiry shall consist of the following members :-
 - (i) the Chief Justice of Zanzibar who shall be the Chairman of the Committee;
 - (ii) a Judge of the Court of Appeal of Tanzania;
 - (iii) a Judge from any Commonwealth country;
 - (iv) four members including Chairman of the House of Representatives' Committee of Constitutional and Legal Affairs.
- (d) within seven days of its Constitution the Special Committee of Inquiry shall investigate the charge against the President and shall, as soon as may be practicable, report to the House of Representatives on whether, in its opinion, the charge against the President can be sustained or not;



(e) the President shall have the right to appear, and/or be represented before the Committee of Inquiry.

(5) Where a Special Committee of Inquiry reports to the House of Representatives that the charges or any charge against the President cannot be sustained the House of Representatives shall not continue to deal with the resolution to impeach the President on the said charge.

(6) Where a Special Committee of Inquiry reports to the House of Representatives that the charge against the President can be sustained, the matter of impeachment of the President shall be submitted before the House of Representatives and the House of Representatives shall, after debate, by a vote of two thirds majority pass a resolution to sustain a charge of impeachment of the President and that he is not entitled to hold office of the President; and the President shall, not later than three days from the date of the resolution, resign.

(7) The Speaker shall submit the said resolution to the President and to the Chairman of the Commission.

(8) No matter shall, under the provisions of this section, be entertained or instituted when the House of Representatives is adjourned."

Adding new
section
39A.

6. The Constitution is hereby amended by adding immediately after section 39 the following section :-

"Resolution
for a
vote of
no
confidence.

39A.(1) Notwithstanding any provision of this Constitution, the House of Representatives may pass a resolution for a vote of no confidence against the Chief Minister if such resolution is proposed and passed in accordance with the provisions of this section.



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(2) Without prejudice to the provisions of this section, no resolution for a vote of no confidence against the Chief Minister shall be proposed unless -

- (a) six months has elapsed since the appointment of the Chief Minister;
- (b) nine months has elapsed since the same resolution was proposed and rejected by the House of Representatives.

(3) A resolution for a vote of no confidence against the Chief Minister shall not be passed unless -

- (a) notice in writing, signed by not less than half of the members of the House of Representatives, is given to the Speaker at least fourteen days before the date of being submitted to the House of Representatives;
- (b) after the Speaker is satisfied that notice for such resolution has fulfilled the conditions prescribed by this Constitution, and that such notice has specified the reasons for such resolution, the said notice shall be submitted to the House of Representatives.

(4) Where the Speaker is satisfied and decides to submit the proposed resolution to the House of Representatives, it shall be submitted as soon as may be prescribed and the House of Representatives shall discuss and decide on the motion for the said resolution in accordance with its Standing Orders.

(5) A resolution for a vote of no confidence against the Chief Minister shall be passed if it is supported by not less than two thirds of the members of the House of Representatives.

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(6) As soon as may be practicable, and in any case, within two days of the resolution for a vote of no confidence being passed by the House of Representatives, the Speaker shall submit the said resolution to the President, and the Chief Minister shall be required to resign from office and the President shall appoint another member of the House of Representatives to be Chief Minister."

Repeal of
Section 69.

7. Section 69 of the Constitution is hereby repealed.

Repeal of
Section 70.

8. Section 70 of the Constitution is hereby repealed.

Amendment
of section
71.

9. Section 71 of the Constitution is amended as follows :-

(a) Subsection (1) -

- (i) by deleting the proviso contained in ~~in~~ paragraph (a);
- (ii) by deleting paragraphs (d), (e) and (f);
- (iii) by renumbering paragraph (g) of that subsection as paragraph (d);

(b) by deleting subsection (2) and substituting therefor the following new subsection (2) :-

"(2) The House of Representatives may enact a law for the purpose of providing for a member of the House of Representatives to appeal against a decision certifying that such member is insane or to appeal against a sentence of imprisonment or capital punishment and the said Act may provide that the said sentence, judgment or decision shall have no effect until a period prescribed in the said law has expired."

Repeal and
replacement
of
section 72.

10. Section 72 of the Constitution is hereby repealed and replaced by the following new section :-



"Determination of election petitions. 72.(1) The High Court of Zanzibar shall have exclusive jurisdiction to hear and determine the election petitions in Zanzibar.

(2) In determining any petition under this section, the Judge may appoint two assessors from among experienced persons to assist him."

Amendment of section 73.

11. Section 73 of the Constitution is hereby repealed as follows :-

- (a) by deleting subsections (3), (4) and (5) of that section;
- (b) by deleting paragraphs (d), (e) and (f) of subsection (6);
- (c) by renumbering subsections (6), (7) and (8) as subsections (3), (4) and (5) respectively.

Repeal and replacement of section 118.

12. Section 118 of the Constitution is hereby repealed and replaced by the following new section :-

"The Electoral Commission.

118.(1) There shall be an Electoral Commission of Zanzibar, which shall consist of the following members appointed by the President -

- (a) a Chairman who shall be a person qualified for that post, as the President considers necessary;
- (b) other members as specified by the Act of the House of Representatives of Zanzibar.

(2) The Commission shall elect a Vice-Chairman from among its members.

(3) The following persons shall not be qualified to be appointed members of the Electoral Commission, namely -

- (a) a Minister or a Deputy Minister;



- (b) a Member of the House of Representatives or a member of the Armed Forces or a holder of any public office who, under the relevant law is disqualified to be a member of the Electoral Commission;
- (c) a member of Parliament or a holder of any public office specified by the Act of Parliament pursuant to the provisions of paragraph (g) of subsection (2) of section 67 of the Union Constitution;
- (d) a leader of a political party.

(4) Subject to the provisions of this section, a member of the Electoral Commission shall cease to hold office -

- (a) upon the expiration of five years from the date of his appointment; or
- (b) if any circumstances arise which, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) The President may remove a member of the Electoral Commission from office only for inability to discharge the functions of office (whether arising from infirmity of body or from any other cause) or for misbehaviour.

(6) A member of the Commission shall be removed from office by the President if the question of his removal from office has been referred to a tribunal appointed under subsection (7) and the tribunal has recommended to the President that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(7) If the President considers that the question of removing a member of the Commission under this section ought to be investigated then :-



- (a) the President shall appoint a tribunal which shall consist of a Chairman and not less than two other members selected by the President from among persons who hold or have held high judicial office in Tanzania; and
- (b) the tribunal shall inquire into the matter and report on the facts to the President and recommend to him whether the member ought to be removed under this section.
- (8) If the question of removing a member from the Commission has been referred to a tribunal under this section, the President may suspend that member from the exercise of the functions of his office and any such suspension may at any time be revoked by the President, and shall in any case cease to have effect if the tribunal recommends to the President that, that member should not be removed.
- (9) For the purposes of the better performance of its functions, the Commission shall be an Independent Department, whereby the Director for Elections shall be Chief Executive who shall be appointed in accordance with the Act enacted by the House of Representatives.
- (10) The Electoral Commission may act notwithstanding any vacancy amongst its members or the absence of any member, but any decision of the Commission shall require the concurrence of a majority of all members present.
- (11) The House of Representatives may enact legislation providing for the procedure for the appointment of delegates to supervise the elections of Presidency, constituency members of the House of Representatives and Councillors and, subject to any such legislation or the directions of the Electoral Commission, the supervising of such elections may be exercised by such delegates.



(12) In the exercise of its function under this Constitution, the Electoral Commission shall not be subject to the orders or directions of any person, department of Government or view of a political party.

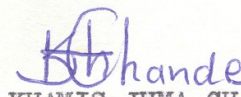
(13) No court shall have jurisdiction to inquire into the question whether the Electoral Commission has validly performed any function vested in it by this Constitution.

(14) In the exercise of its functions under the provisions of this Constitution, the Electoral Commission of Zanzibar shall from time to time consult with the National Electoral Commission of the Union."

Amendment of
section
123.

13. Section 123 of the Commission is hereby amended by deleting paragraph (c) of subsection (2) and renumbering paragraph (d) as paragraph (c).

Passed in the House of Representatives on the
8th day of December, 1992.


KHAMIS JUMA CHANDE

CLERK TO THE HOUSE OF REPRESENTATIVES.