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NOTICE

The Bill following hereunder shall be presented before the House of Representatives for the first reading which will start its session on 23rd day of November, 2016 and is gazetted for the public notice incorporating together with its objects and reasons.

ZANZIBAR
1st November, 2016

(DR. ABDUL HAMID Y. MZEE)
*Secretary to the Revolutionary Council
and the Chief Secretary*

A BILL

for

**AN ACT TO REPEAL THE ZANZIBAR ELECTORAL
COMMISSION ACT, NO. 9 OF 1992 AND TO ENACT THE
LAW TO ESTABLISH THE ZANZIBAR ELECTORAL
COMMISSION OFFICE, FUNCTIONS, POWER, AND
PROVIDE FOR OTHER MATTERS
CONNECTED THEREWITH**

PASSED by the House of Representatives of Zanzibar.

PART I
PRELIMINARY PROVISIONS

Short title
and com-
mencement.

1. This Act may be cited as the establishment of the Zanzibar Electoral Commission Office Act of 2016, and shall come into operation immediately after being assented to by the President.

Interpreta-
tion

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

“Candidate” means a person who is nominated by the Commission to compete for the post of the President of Zanzibar or Member of the House of Representatives or the Councilor;

“Commission” means the Zanzibar Electoral Commission established under section 119 (1) of the Constitution;

“Constitution” means the Constitution of Zanzibar, 1984;

“Chairperson” means a Chairperson of the Commission appointed under the section 119 (1) (a) of the Constitution;

“Constituency” means an electoral area declared by the Commission for the purposes of election for the Members of the House of Representatives, Councilor except the Presidential election;

“Director” means a person appointed under section 13 of this Act;

“District Election Officer” means an Officer appointed by the Commission to conduct election duties in his respective District under this Act and it includes Assistant District Election Officer;

“Election” means-

(a) the Presidential election;

- (b) the member of the House of Representatives elections;
- (c) the Councilors elections;
- (d) by-election; or
- (e) election re-run.

“Member” means a person appointed by the President under section 119 (1) of the Constitution;

“Minister” means the Minister responsible for Elections;

“Head of the Directorate” means a person appointed by the Commission including his assistant to supervise duty of the Directorate;

“Directorate” means the Directorate of the Commission as established under section 17 (1) of this Act;

“Office” means the Office of the Commission as established under section 11 of this Act;

“Party” means a Political Party registered under the Political Parties Act of the United Republic of Tanzania;

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

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

“Secretariat” means a Secretariat of the Commission established under section 18 of this Act.

PART II
ESTABLISHMENT, FUNCTIONS AND POWERS OF
COMMISSION

Establishment
and
Composition
of the
Commission

3. The provisions relating to the establishment and composition of the Commission shall be as provided under the Constitution.

Functions
of the
Commission

4.-(1) The functions of the Commission shall be to-

- (a) supervise the general proceedings of elections and referendum in Zanzibar;
- (b) supervise, promote and regulate voters education;
- (c) prepare, compile, maintain and update the Permanent Voters' Register;
- (d) review and demarcate Constituency boundaries; and
- (e) exercise and perform any other function conferred upon it by the provisions of this Act or any other law or Regulations.

(2) Subject to the provisions of the sub section (1) of this section, the Commission shall, in the performance of its functions, adhere to the Constitution, Laws and Principles of the democracy and good governance.

Powers
to regulate
Campaigns

5. The Commission shall, subject to the provisions of the Constitution and Laws relating to Elections, and for the purpose of carrying out its functions, have the powers to regulate Election's Campaigns.

Powers
to seek
information

6.-(1) In accordance with the provisions of this Act or any other Law relating to security of the Government affairs, the Commission may, by writing, require from any person or Institution any information which

the Commission reasonably believes that the person or Institution possesses such information.

(2) Any person, without reasonable excuse fails to provide to the Commission any information required under sub section (1) of this section, or provide any such information which he knows to be false or delay to provide such information within specified time, commits an offence and upon conviction shall be liable to a fine of not less than five hundred thousand shillings but not exceeding One Million shillings or to imprisonment for a term of not less than three months but not exceeding one year or to both such fine and imprisonment.

7.-(1) During elections or Referendum the Commission shall have the power to use, after consultation with the owner of any building, premises, or place as it deems necessary for electoral and referendum functions. Powers to use buildings or premises

(2) Notwithstanding the provision of subsection (1) of this section, the Commission shall not use any worship or party's building for elections and referendum purposes.

8.-(1) The Commission may, for the purpose of performing its functions under this Act, establish advisory committee as it considers necessary. Powers to establish Advisory Committee

(2) In establishing the Advisory Committees, the Commission shall appoint members in such a number and manner as it may think necessary.

(3) Subject to any specific or general direction, the Commission shall regulate the procedure for the meeting of the such Committees as provided under the Regulation made under this Act.

9.-(1) The Commission may, in any Election or Referendum, upon required application by the Commission, and after being satisfied with the qualifications of the applicant, provide accreditation for election or referendum observation. Powers to accredit Observers.

(2) The Commission shall provide guidelines and conditions to the accredited observation missions, that shall elaborate the purpose of the accreditation and the measures that can be taken to the mission that shall contravene the purpose and conditions of the accreditation.

(3) Any observation mission granted accreditation under this section, shall be obliged to submit to the Commission a report that explain the manner in which the election or referendum conducted along with the recommendations within the period of ninety (90) days after declaration of results.

(4) Any accredited observation mission that fails to submit a report to the Commission within the time specified under subsection (3) of this section, shall not be eligible for accreditation for the forthcoming elections or referenda.

(5) Any person or Institution who conducts election observation without the permission of the Commission shall be liable to a fine not less than three million Shillings and not more than five million shillings or to imprisonment for a term of one year or to both such a fine and imprisonment.

Powers to
prepare
rules and
guidelines

10. The commissions may, at any time where circumstances require on implementation of its function, prepare rules and guideline in the performance of its functions.

PART III

ESTABLISHMENT AND FUNCTIONS OF THE OFFICE

Establish-
ment
of the
Office.

11.-(1) There is hereby established an Office to be known as the Office of the Zanzibar Electoral Commission.

(2) The Office shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of-

(a) suing and being sued;

- (b) acquiring, holding and disposing movable and immovable property;
- (c) entering into any contract or any other transactions; and
- (d) doing or causing to do any other act and things which a body corporate may perform, do or cause to be done.

12.(1) There shall be a common seal and emblem of the office, in a shape and manner as may be determined by the Commission. Seal and emblem.

(2) The application of the seal of the Commission on any document shall be authenticated by the signature of the Director or any other officer of the Commission authorized by Director.

(3) Every document purporting to be an instrument issued by the Commission, sealed with the seal of the Commission and authenticated in accordance with sub section (2) of this section, shall be deemed an instrument of the Commission and shall be received in evidence without further proof.

13.(1) There shall be a Director who shall be appointed by the President upon such terms and conditions as may be prescribed in his letter of appointment. Director

(2) The Director shall, before assuming the functions of his office take and subscribe an oath of allegiance and secrecy before the President.

(3) The Director shall be the Chief Executive Officer of the Office and shall perform all day to day activities of the Office.

14. A person shall be eligible to be appointed as Director if he-

Qualifications
of Director.

- (a) is a Zanzibari;

- (b) holds at least first degree in any discipline from any recognized University; and
- (c) is senior officer in a public service.

Tenure of the Director

15.-(1) The Director shall hold office in accordance with the provisions of the Public Services Act.

(2) The procedure of removing Director from the office shall be complied with the provisions as prescribed under section 119 (6) of the Constitution.

Functions of the Director.

16. Without prejudice to the function of the Commission specified under section (4) of this Act, the Director shall performs the following functions, to -

- (a) supervise and conduct day to day activities of the Office
- (b) prepare and coordinate Meetings of the Commission;
- (c) provide technical assistance to the Commission in performing its function;
- (d) prepare election budgets and election calendars;
- (e) maintain records of all decisions of the Commission;
- (f) prepare working documents for the Commission;
- (g) liaise with internal and external organizations related to election, democracy and good governance;
- (h) prepare and issue directives to election officers in performing their duties as directed by the Commission;
- (i) observe working behavior of the staff of the Office;
- (j) conduct research concerning electoral cycle or referendum; and

- (k) do any other function as may be assigned to him by the Commission in accordance with the provisions of this Act or any other law.

(2) In performing the functions under subsection (1) of this section, the Director shall be assisted by other members of the Secretariat.

17.-(1) The Commission shall, subject to provisions of Public Service Act, establish a Directorates as it deems necessary for effective execution of its functions.

Directorates

(2) There shall be Head of each Directorate who shall be appointed by the Commission among the senior staff recommended by the Director.

(3) The Head of Directorate shall perform his functions in accordance with directives of the Director.

18.-(1) There shall be a Secretariat of the Commission which shall have responsibility of assisting the Commission in performing its functions.

Secretariat

(2) The Secretariat shall be composed of-

- (a) the Director who shall be the head of secretariat;
- (b) Heads of Directorates;
- (c) any other officers as may be determined by the Commission.

(3) The secretariat may invite any person to attend in its meeting for purpose of providing his expertise opinion.

19.-(1) There is hereby established in each District of Zanzibar a District Election Office.

Establishment of the District Election Office

(2) The District Election Office shall be headed by District Election Officer employed by the Commission.

(3) The District Election officer before assuming his function take on oath before Magistrate.

Functions of Election Office

20. The District Election Office shall have the followings functions, to-

- (a) register the voter;
- (b) transfer particular of voter from one area to another;
- (c) correct the voter information in the register ;
- (d) conduct election awareness and voter education;
- (e) nominate the candidates for the House of Representative and local councilors;
- (f) supervise election campaign; and
- (h) do any other function as may be determined by the Commission or any other law.

Other staff

21. The Commission may employ other staff of the office in such a number and term for purpose of carrying out function and duty in accordance with the provisions of the Public Services Act.

Transfer of staff

22. For the purpose of ensuring the independence of Commission and maintaining the openness of the office, the officer save for the Presidential appointee, shall not be transfer from or to the office without the consent to Commission

**PART IV
FINANCIAL PROVISIONS**

Budget vote

23. The Office shall hold its own budget vote through which all the money appropriated or accrued for the use of the Office shall be disbursed.

24.-(1) There shall be Fund of the Commission which shall consist of- Fund of Office.

- (a) such moneys as approved by the House of Representatives; and
- (b) moneys paid to the Commission by way of grants, donations or any other way.

(2) The Director may, subject to the approval of the Minister responsible for finance, raised by way of loans or otherwise, such moneys as it may be required for the discharge of its functions.

25. The Director shall be Accounting Officer of the Office. Accounting Officer

26.-(1) The Director shall keep proper account of all receipts and expenditure of the Office in accordance to Public Finance Act. Account and audit

(2) The account of the office shall be audited by the Controller and Auditor General or by any other Auditor approved by the Controller and Auditor General and such audited accounts shall be submitted with other financial statements to the Minister.

PART V MISCELLENEOUS PROVISIONS

27.-(1) The Commission shall, after the end of each General Election or Referendum, prepare and submit the report to the President. Report

(2) Subject to the subsection (1) of this section, the report shall contain all necessary information as the Commission may deem fit.

(3) Notwithstanding, the provisions of sub section (2) of this section, the Commission shall, after every five years of its tenure, prepare and submit the report of implementation to the President.

28. Notwithstanding with the provisions of other Laws, member of the Commission and other staff injured while performing election or Ex-gratia payment

referendum functions shall be entitled to receive compensation on such terms and conditions as may be determined by the Commission.

Offences
and
penalties.

29. A person who -

- (a) willfully hinders or obstructs the members of the Commission or Executive Director or any other Officer of the Commission in the performance of his functions; or
- (b) willfully interrupts the proceedings of a meeting of the Commission or misbehaves in any other manner in the place where such meeting is held; or
- (c) does anything which may cause the failure of the Commission to perform its duty under this Act;

Commits an offence, and upon conviction shall be liable to a fine of not less than five hundred thousand shillings and not exceeding one million shillings or imprisonment for a term of not less than six months and not more than twelve months or to both such fine and imprisonment.

Immunity

30. Any act done or abstain on the ground of good faith, done or abstain by an officer of the Commission in performing his function or power under the provisions of this Act or any other Act shall not be liable for civil or criminal liability

Disclosing
information

31. Any person who willfully discloses the proceedings or classified information of the Commission without permission to any unauthorized person shall be guilty of an offence and upon conviction shall be liable to a fine of not less than one million Shillings and not exceeding three million Shillings or imprisonment for a term of not less than one year and not more than three years or both such fine and imprisonment

32.-(1) Remuneration of the members of the Commission shall be paid from the Consolidated Fund on such amount as may be determined by the President.

Remuneration for members and officer.

(2) Notwithstanding the sub-section (1) of this section, the officer of the Commission shall be paid on such amount as may be determined by the Commission in accordance with the Public Finance Act.

33.-(1) The Commission may, make Regulations for giving better effect to the provisions of this Act.

Regulations

(2) For the better carrying out of the purpose of sub section (1) of this Act, Regulations made under this provisions shall be Published in the Official Gazette.

34.-(1) The Zanzibar Electoral Commission Act, No. 9 of 1992, is hereby repealed.

Repeal and Saving.

(2) Notwithstanding the repealed Act under sub-section (1) of this section, anything done or action taken under the provisions of the repealed Act, shall be deemed to have been done under the provisions of this Act.

OBJECTS AND REASONS

The objects of this Bill is to repeal the Zanzibar Electoral Commission Act, No. 9 of 1992 and to enact the new laws which establish the Zanzibar Electoral Commission Office and other matter connected thereto.

The proposal Bill is intent to provide good efficient and proper management of the Zanzibar Electoral Commission in order to ensure such established office will be clear composition set up.

The Zanzibar Electoral Commission office will undertake its function under the directives of the Director of the Commission who is responsible to perform day to day function of the office.

Therefore, the proposal Bill will establish the Directorates and each Directorate shall be accountable to the Commission among the senior staff who recommended by the Director, apart from this, there is hereby establish the Secretariat of the Commission.

Again, the Bill is also establish the District Election office and its functions in order to ensure the election and referendum process and campaign will be govern in a democratic and good governance

The Bill is divide into six parts and each part shall contain independent themes therein

Part One is about preliminary provisions contain short title and commencement and interpretation of some of words used in this Bill.

Part two is about establishment, function and power of the Commission, as mentioned in this Bill the Commission is vested different power in a view to ensure the proper management the function of the Commission

Part three is explain the function of the office and establishment thereto which show the seal, emblem and emphasizes the authenticated of document of the office must be signed by the Director.

Part Four deal with financial provisions that includes fund of the office, budget vote, accounting and audit and the procedures of handling the funds of the offices as stipulated under the Public Finance Act

Part five deals with miscellaneous provisions which includes report of the Commission, Ex-gratia payment, offence and payment and power of the Commission to make Regulations in order to ensure proper management of this Act.

[MOHAMED ABOUD MOHAMED]
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