



**THE SPECIAL DEPARTMENTS SERVICE  
COMMISSION ACT, NO.6 OF 2007**

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**ACT NO.6 OF 2007**

**I ASSENT**

*Amani Abeid Karume*

**{ AMANI ABEID KARUME }  
THE PRESIDENT OF ZANZIBAR AND  
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

*19th JUNE*....., 2007

**AN ACT TO REPEAL AND RE-ESTABLISH A SPECIAL  
SERVICE COMMISSION AND TO PROVIDE FOR ITS  
FUNCTIONS AND POWERS AND OTHER MATTERS  
INCIDENTAL THERETO**

**ENACTED** by the House Representatives of Zanzibar

**PART I  
PRELIMINARY PROVISIONS**

Short title and  
Commencement.

1. This Act may be cited as the Special Departments Service Commission Act, 2007 and shall come into operation upon being assented to by the President.

Interpretation.

2. In this Act unless the context otherwise requires.

"Appellate Court of the Commission" means the court established under section 19 of this Act;

"Chairperson" means the chairperson of the Commission;





"Civil Court" means the High Court of Zanzibar and its subordinate courts;

"Commander in Chief" means the President of Zanzibar and Chairman of Revolutionary Council;

"Commission" means the Special Department Service Commission established under section 122 of the Constitution of Zanzibar 1984;

"Deputy Commander" means any officer appointed by the President to be Deputy Commander of Special Department or Chief Administrator in Special Department;

"Doctor" means any servant from the medical profession who graduated and awarded a medical Certificate in any Institution recognised by the Government or has qualifications recognised by the ministry for health;

"Head of Department" means Commander of Special Department appointed by the President to be the chief of any Special Department;

"Minister" means the Minister for the time being responsible for all matters relating to Special Departments.

"Negligence" means commission or omission of any act which leads to breach of any law or rules or its consequence will lead to damage;



"Officer" means any servant of Special Department of a rank of second Lieutenant and above for JKU and Volunteer; Assistant Inspector and above for Chuo cha Mafunzo and Fire Brigade; and Midshipman and above for KMKM;

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

"Principal Secretary" means Principal Secretary of the ministry for the time being responsible for Special Departments;

"Responsible Authority" or "Authority" means the institution responsible for or authorised to perform certain duty under this Act or Rules made under this Act;

"Secretary" means Secretary of the Commission;

"Servant" means any officer or soldier employed in Special Department;

"Soldier" means any servant employed in Special Departments of the lower rank up to the rank of warrant officer class I for JKU and Volunteer; Regiment Sergeant Major for Mafunzo and Zimamoto; and Master Chief Petty officer for KMKM;

"Special Department" means the Special Departments established under Article 121 of the Constitution of Zanzibar, 1984;

"Subordinate Officer" means an officer below the rank of Major for JKU and Volunteer,



Superintendent for Chuo cha Mafunzo  
and Zimamoto and Lieutenant  
Commander for KMKM;

"Superior Officer" means an officer of the rank  
of Major or above for JKU and Volunteer;  
Superintendent for Mafunzo and  
Zimamoto; and Lieutenant Commander  
for KMKM;

## **PART II**

### **ESTABLISHMENT, FUNCTIONS AND POWERS OF THE COMMISSION**

Establishment of  
the Commission.

3. There is hereby established a Commission  
to be known as Special Department Service  
Commission of the Revolutionary Government of  
Zanzibar.

Composition of  
the Commission.

(4) The Special Department Service  
Commission shall be composed of the following  
members:-

- (a) The Minister who shall be the  
Chairman of the Commission;
- (b) Commanders of the Special  
Departments;
- (c) Attorney General;
- (d) Chairman of the Civil Service  
Commission;
- (e) Two retired Zanzibaris with skill and  
sufficient experience in defence and  
security who shall be appointed by the  
Minister and approved by the  
President.





(2) The Principal Secretary shall be the Secretary to the Commission.

(3) A Commander of Special Department whose decision is before the Commission or who has interest in the matter which is before the commission, shall not take part in the deliberation of the Commission, except for clarification.

(4) All members of the Commission other than ex-officio members shall hold office for three years and may be eligible for re-appointed to hold their office for another period of three years.

Functions of the Commission.

5. The functions of the Commission shall be:-

- (a) to scrutinize and analyse recommendations made by the Commander of Special Department concerning names of servants to be promoted as officers for the first time in Special Department and to approve those names which approval of the Commander in Chief needs to be sought;
- (b) to scrutinise and analyse recommendation of recruitment made by the Commanders of Special Departments for the purpose of seeking permission of Commander in Chief whose decision shall be final;
- (c) to terminate the contract of employment of any person to whom terms of employment is not in accordance with the laws and Regulations of Special Department;
- (d) to arrange scales of salaries and allowance of all servants of Special Departments;





- (e) to put scales of gratuities, pension and other remunerations for all servants of Special Departments;
- (f) to hear all appeals presented before it concerning decisions made or relating to the Commanders of Special Departments;
- (g) to review and scrutinise the framework of Special Departments and to advise the Minister for the same;
- (h) to review and scrutinise recommendations of Commander of Special Departments concerning filling vacant administrative posts within the Special Departments;
- (i) to advise the President on the exercise of powers vested upon him under several legislations of the Special Departments;
- (j) to advise the Minister on the exercise of powers vested upon him under several laws of the Special Departments;
- (k) to do any other function which may be referred to it by President.

Delegation  
of powers.

6.(1) The commission may delegate some of its power and functions relating to disciplinary measures, promotion and recruitment of new servants to the Commander of Special Departments.

(2) Where the Commission has delegated any of its powers to the Commander of Special Departments on matters provided under this



section, the Secretary shall issue a another notice on such matters and limitations of Commanders.

Power to form  
sub Committees.

7.(1) The Commission shall, in carrying out its functions, have power to form special sub-committees to assist it and appoint to such committee members from the Commission or other persons or both members and other persons not exceeding five to constitute such a committee.

(2) The Commission shall have power to decide on procedures to be followed by the committee and the keeping of minutes of the committee formed under this Act.

Powers of the  
Commission to  
issue summons.

8.(1) Without prejudice to any law or rules concerning privilege, immunity and secrecy, the Commission may summon any person to give statement or any document, concerning any matter presented before the Commission.

(2) Subject to the provision of sub-section (1) of this section, the Secretary shall issue summons to require appearance before the Commission of the person concerned.

Procedures in  
the execution  
of its function.

9. For better implementation of its functions the Commission shall comply with special procedures relating to appointment, promotion and increment as may be provided under the Regulations.

Right to be heard.

10.(1) The Commission shall hear complaint from a servant or any person who appears to have a cause of action to which the Commission may solve.

(2) The right to be heard under this section includes personal appearance of the party.



### **PART III CORRESPONDENCE, MEETING, DECISION AND OTHER BENEFIT OF THE COMMISSION**

Communication.

11. Correspondence to the Commission shall be made and addressed to the Secretary of the Commission, and shall be kept in accordance with Government procedures.

Meeting and  
procedure.

12.(1) In the course of executing its duties, the commission shall convene its ordinary meetings once in three months, but may convene an extra ordinary meeting at any time when a need arises.

(2) The quorum at any meeting of the commission shall be not less than three quarters of members of the Commission.

(3) All meetings shall be chaired by the Chairman and, in his absence, any person who may be appointed by the members to act as chairman not being the Commander of Special Departments.

(4) The Commission shall cause to be recorded and kept full details of all business conducted or transacted at its meeting and the minutes of the meeting shall be read and confirmed or amended and confirmed at next meeting of the Commission and signed by chairman.

Remuneration  
of Members.

13. Upon termination of their service period, Members of the Commission shall be paid sitting allowances and terminal benefits to be fixed by the commission and approved by the Minister.

Criminal  
disciplinary  
offence.

14.(1) Neither the commission nor head of special department shall have power to deal with any matter of criminal nature which fall under the jurisdiction of civil authority or to restrain any civil authority from exercising its lawful powers in





respect to any criminal matter, save for a matter that has been ruled by the court to be of a disciplinary or administrative nature.

(2) Where it is proved that a particular offence is a criminal offence and the officer concerned or servant is convicted, he will be deemed to be convicted under the relevant Rules of Special Departments, and in case of being sentenced to imprisonment for a period not more than three months, the convicted servant will be considered to be on leave without pay, and where the imprisonment exceeds three months, he will be dismissed.

(3) Non-conviction for and criminal offence in respect of any matter under this section shall not preclude the exercise of discretion by Commander of Special Department to charge, on the same facts, the person concerned with disciplinary offence in accordance with regulations of the Special Department.

#### **PART IV APPEAL AND PENALTY**

Power of  
administrative  
authorities.

15.(1) All matters relating to services of superior officers of Special Departments shall be vested to the President.

(2) All matters relating to services of subordinate officer of Special Departments shall be vested to the Commission.

(3) All matters relating to services of soldiers of Special Departments shall be vested to the Commanders of Special Departments.

(4) Notwithstanding provisions of subsections (1), (2) and (3) of this section, all matters relating to disciplinary measures and imposition of penalty





shall be vested to the courts established under the law and Regulations of Special Departments.

Qualifications of marshal court.

16. Regulations of the Commission and Special Departments shall specify the qualification of each marshal court established by that Department which shall ensure that the court have jurisdiction to determine disciplinary matters to be dealt with by that court.

Appeal.

17.(1) Any soldier or officer dissatisfied with the decision of the Commander may with 14 days appeal to the upper court of the Department.

(2) Where such an officer or soldier is not dissatisfied with the decision of the upper court of his department may within 14 days appeal to the Appellate Court of the Commission of Special Department whose decisions shall be final on the matter and no any other court whether marshal or civil shall have jurisdiction to deal with the matter.

(3) Any court dealing with appeal shall have power to allow or disallow it or to order re-investigation of the matter or to start denovo or to amend the decision as it deems fit.

(4) Where an appeal is filed, the execution of any disciplinary decision given by subordinate court shall not be carried out until the Appellate Court disposes the matter in the appeal.

Powers of the Commander to give pardon.

18. Notwithstanding any provision in this Act, the Commander shall have power to give pardon or to change penalty imposed for any officer of the Special Department in issue, to which final administrative decisions are in his powers.

Appellate Court of the Special Departments.

19. There shall be an Appellate Court of the Special Departments constituted of the following members:-



- (a) Chairperson who shall be a person qualified to be a High Court Judge, and shall be appointed by the President;
- (b) One member from each Special Department who shall be an officer experienced in matters of laws governing Special Departments who shall be appointed by the Minister.

Functions of  
Appellate Court  
of the Special  
Department.

20. The Appellate Court of the Special Department shall have the following functions:-

- (a) to determine appeals filed before it by officer and soldiers of Special Departments;
- (b) to impose penalties in accordance with the law and Regulations of Special Departments;
- (c) to do all functions of Appellate Court on disciplinary matters presented before it.

Procedure of  
Appellate Court  
of the Special  
Department.

21.(1) The Appellate Court of the Special Department shall meet at any time convened by the Secretary after receiving any application for appeal.

(2) Any decision of the Appellate Court shall be determined by majority votes and where votes are equal, the Chairperson shall have a casting vote.

(3) The Minister shall make rules of procedures and directives of the Appellate Court of the Special Department which shall, inter alia, provide for:-

- (a) additional qualifications of members of the Appellate Court of the Commission;



- (b) appeal procedure to be followed by servants of Special Departments who wish to appeal before the Appellate Court of the Commission;
- (c) right and privileges of the members of the court of the Special Departments;
- (d) procedures of hearing cases and other claims before the Appellate Court of the Special Departments;
- (e) other matters which are necessary for the efficient performance of the court's functions.

Contempt  
of court.

22.(1) Any person, where civilian or servant of special department, who intentionally ignores the summons of the court, commits perjury, gives abusive or threatening language, refuses to take oath, refuses to answer questions or refuses to produce any document when required to do so or does any disrespect to court, shall be guilty of an offence and shall be liable on conviction to be sentenced to educational centre for the term of three months.

(2) Where a culprit is a civilian such an offence shall be charged before a civil court.

Future to appear  
before the  
Appellate Court.

23.(1) Any person who intentionally fails to appear before the Appellate Court of the Special Departments after being issued a summon under section 8 of this Act or failure to produce a thing as required by the court, shall be guilty of an offence and on conviction by a civil court shall be liable to imprisonment for one month or fine not less than three hundred thousand shillings or both imprisonment and fine.





(2) No person shall be charged under this section unless the commission is satisfied that a suspect was capable of doing the required matter but he refused intentionally, and that the suspect was given caution on failure to appear before the court.

**PART IV  
PROCEDURES OF PAYMENT OF  
COMPENSATION, GRATUITY, PENSION AND  
RETIRED STAFF BENEFIT**

Payment of  
compensation.

24.(1) All servants of Special Department who die or injured or disabled in the cause of their employment shall be entitled to payment of compensation under this section and in accordance with Rules made for that purpose.

(2) Payment of compensation in Special Department shall consider either of the following circumstances:-

- (a) death;
- (b) permanent disability;
- (c) temporary disability;
- (d) injury or pain.

(3) No officer or soldier who either died or injured shall be entitled to compensation prior to establishment of Board of investigation of health which will provide for cause of death or disability and type of disability.

(4) There shall be a Board of Investigation of health for special departments whose functions shall be as provided under sub-section (3) of this section and shall be constituted of the following members:-





- (a) two medical doctors from the medical council;
- (b) one medical doctor from special departments.

(5) For the purpose of this section, medical Council means the Council established under Act No. 12 of 1999.

Un entitled for compensation

25. Notwithstanding provisions of section 24 of this Act, no officer or soldier shall be entitled to compensation if it will be proved that his injuries, disability or death is caused or occurred under the following circumstances:-

- (a) if intentionally he has caused such injuries, disability or death;
- (b) by negligence;
- (c) failure to follow instructions ought to be followed in work place;
- (d) has occurred in the course of committing any offence under any law, regulations or directives;
- (e) not in the course of his employment.

Compensation for death or injuries.

26. The payment of compensation mentioned under section 24(1) of this Act shall be made in accordance with the Regulations made under this Act.

Compensation made to heirs.

27. Where it is proved that an officer or soldier died in circumstances in which he or she is entitled to compensation, such compensation shall be paid to heirs of the deceased servant in accordance with the relevant provisions of law.



Pension.

28.(1) Officers whose services shall terminate in any of the situations provided under this section, shall be entitled to pension for life:-

- (a) if he retires for attaining retirement age;
- (b) if he applies to retire after serving for twenty years of contracting period;
- (c) if he retires after completion of twenty years period of service;
- (d) if he is retired for public interest and has served for 10 years consecutively;
- (e) if he is retired for health ground and has served for 10 years consecutively.

(2) Soldiers who retired by any of the circumstance provided under this section shall be entitled to pension for life:-

- (a) if he retires for attaining retirement age;
- (b) if he retires after completing 25 years of service even if has not reached retirement age;
- (c) if he is retired for public interest after 10 years of service;
- (d) if he is retired for health grounds after 10 years of service.

Scales of gratuities and pensions.

29.(1) All servants who will terminate from service in the Special Department in accordance with the provisions of this part of this Act and Regulation to be made under it, shall be entitled to gratuity.



(2) There will be a procedure for computing payments of pension and gratuity to servants as provided under the Regulations made under this Act.

Benefits of  
Commanders.

30. The Commanders of Special Departments shall, on being retired, be entitled to retirements benefits from the treasurer as shall be provided in the Regulations made under this Act.

Payment to  
be made by  
Treasurer.

31.(1) All financial payments arranged by the Commission and approved by the Government from time to time under this Act or Regulations to be made under it relating to gratuity, pension, compensations, salaries, allowances and other payments shall be paid from the Consolidate Fund.

(2) Payments to which retired Commanders of Special Departments are entitled shall be budgeted by Special Department concerned and the Consolidate Fund shall be requested to effect such payments.

(3) Notwithstanding the provisions of the Pension Act, No. 2 of 1990, the Zanzibar Social Security Fund Act, No. 2 of 2005 and the Workmen's Compensation Act, No. 15 of 1986 as amended by Act No. 5 of 2006, the benefits of the servants of Special Departments shall be paid under this Act and Regulations made under it.

## **PART VI MISCELLANEOUS PROVISIONS**

Regulations.

32.(1) The Minister may, after consultation with Special Departments, and upon being approved by the President, make regulations providing for the following:-





- (a) matter and procedures of recruitment;
- (b) procedures of payment of compensation to servants of Special Departments, who injured or died during their contracts or otherwise;
- (c) allowances and other benefits for Commanders before and after retirement;
- (d) gratuities and pension for servants of Special Departments;
- (e) procedures of appeal against decisions of Commanders of Special Department and the Commission;
- (f) ranks of Special Departments and period of serving such ranks;
- (g) powers and responsibilities of various authorities in accordance with laws and regulations applicable to Special Departments;
- (h) sick leave and the duration for the servants who have been in sick leave shall be entitled to retire for sickness;
- (i) procedures to be considered in providing disciplinary actions;
- (j) qualifications for Zanzibaris who may be appointed by the Minister to be a member of the Commission;
- (k) any other thing which shall be for the better carrying out the provisions of this Act;





(2) All regulations made by the Minister under this Act, shall be only to the servants of Special Departments only.

Repeal of some provisions of the Special Departments Act.

3.(1) After this Act comes into operation all provisions that provide for appointment, recruitment, promotion, penalties, disciplinary actions, confirmation, salaries, allowances, gratuity, pension and other similar matters in any laws relating to service of the Special Departments or relating to JKU, KMKM, the Offenders Educational Centre, Fire Brigade, and Volunteer, the provisions of such laws or Regulations shall not come into effect and instead such matters shall be governed under this Act.

(2) Without prejudice to the provisions of subsection (1) of this section, any thing done or being done to any person in accordance with the laws as mentioned under subsection (1) of this section, shall be lawful as if those acts were done in accordance with this Act.

Repeal of Act No. 7 of 1986.

34.(1) The Special Departments Services Commission Act, No. 7 of 1986 is hereby repealed.

(2) Notwithstanding the repeal of the said Act mentioned in subsection (1) of this section:-

- (a) anything done or measure taken under the repealed laws shall be deemed to have been done under the provisions of this Act;
- (b) any Regulations, procedures or orders made under the repealed laws which are still in force during the coming into force of this Act shall remain to be in force until repealed or amended by other regulations, procedures or orders made under this Act;



- (c) any proceedings for any offence or any payment required to be paid by the repealed laws may proceed under such repealed laws.

**PASSED** in the House of Representatives on the 17<sup>th</sup> day of April, 2007.

( IBRAHIM MZEE IBRAHIM )  
CLERK OF THE HOUSE OF REPRESENTATIVES