

*Bill Supplement to the Zanzibar Government Gazette  
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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 9<sup>th</sup> May, 2018 and is Gazeted for the public notice incorporating together with their objects and reasons.

**ZANZIBAR**  
10<sup>th</sup> April, 2018

(Dr. ABDULHAMID Y. MZEE)  
*Secretary to the Revolutionary  
Council and Chief Secretary*

**A Bill  
for  
AN ACT TO MAKE BETTER PROVISIONS FOR THE  
ADMINISTRATION OF THE JUDICIARY, TO  
ELABORATE THE JUDICIAL SERVICE, TO PUT IN  
PLACE THE OFFICES OF THE CHIEF COURT  
ADMINISTRATOR AND THE REGISTRAR, TO PROVIDE  
FOR THE ESTABLISHMENT OF THE JUDICIARY FUND,  
AND TO PROVIDE FOR RELATED MATTERS THERETO**

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**ENACTED** by the House of Representatives of Zanzibar.

**PART ONE  
PRELIMINARY PROVISIONS**

- Short title and Commencement.      **1.** This Act may be cited as the Judiciary Administration Act, 2018 and shall come into operation immediately after being assented to by the President.
- Application.                      **2.** This Act shall apply to Zanzibar.
- Interpretation.                  **3.** In this Act unless the context otherwise requires:
- "Chairman" means the Chairman of the Commission;
- "Chief Justice" shall have a meaning ascribed to it under the Constitution;
- "Commission" means the Judicial Service Commission established under the Constitution;
- "Commissioner" means a member of the Commission;
- "Committee" means the Judges Ethics Committee or Judicial Employees Ethics Committee established under this Act or any other committee which may be established by the Judicial Service Commission or Chief Justice;

“Constitution” means the Constitution of Zanzibar, 1984;

"Chief Court Administrator" means the Chief Court Administrator appointed under section 7;

"Judge in-charge" means a Judge in-charge of a High Court or Division of the High Court;

"Judicial Officer" means a person in the judicial service, appointed to perform the functions and exercise the powers of adjudication in the courts of law including Kadhi's Court;

"Judicial Scheme of Service" means administrative scheme stipulating a formal or official order or way of doing things for the purpose of enabling judicial and non-judicial officers to serve in an orderly and accountable manner;

"Judicial Service" means the Judicial Service established under the Public Service Act;

"Judiciary" means the High Court of Zanzibar as established under the Constitution, and any subordinate court as may be established under any other law;

"Non-judicial officer" means a person who performs the functions and exercises the powers, in the judicial service, other than a judicial officer;

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

“Registrar” means the Registrar of the High Court appointed under section 25 of this Act;

"Secretary" means the Secretary to the Commission referred to in section 11;

Standards of  
services.

4. In performing the functions and discharging duties conferred by this Act, the Commission and the Judiciary shall, among other things:

- (a) use the technical, infrastructural and administrative competence to ensure that the requirements of judicial process are fulfilled;
- (b) adopt quality service as a core principle and, to uphold this principle, the Commission and Judiciary shall formulate a modern and constantly updated scheme of judicial and other trainings for all categories of judicial officers and non-judicial officers;
- (c) be guided in their activities by relevant provisions of the Constitution and other laws;
- (d) uphold judicial service code of conduct and ethics as may, by regulation, be prescribed;
- (e) be non-partisan and non-political in orientation and operation;
- (f) promote and uphold honesty and integrity in operation, and give fulfillment for all values essential for the discharge of judicial and non-judicial functions; and
- (g) apply and promote such other values as have been prescribed under the Public Services Act and as to be prescribed by Regulations.

## **PART TWO ADMINISTRATION**

Judicial  
service.

5.-(1) The judicial service shall consist of employees who are categorized as judicial and non-judicial officers.

(2) The employees in the judicial service, shall not, in the performance of their adjudicative functions, receive directives from any authority outside the judicial service.

**6.-(1)** The Commission shall:

- (a) formulate a judicial scheme of service for the effective structure of the service;
- (b) make provisions in the judicial scheme of service as it considers necessary for the promotion, development, maintenance and control of an efficient service;
- (c) formulate a judicial scheme of service for purposes of proper description and distribution of the functions performed by the Judiciary.

(2) The Commission shall, after formulating a judicial scheme of service, recommend it to the Public Service Commission.

(3) The Commission shall, in appointing judicial and non-judicial officers, consider the terms and conditions set out in the judicial scheme of service.

**7.-(1)** There shall be a Chief Court Administrator, who shall, on the recommendation of the Commission, be appointed by the President.

(2) For the purpose of subsection (1), the Commission shall recommend to the President not less than three names from which the President shall appoint the Chief Court Administrator.

(3) A person shall qualify for appointment as the Chief Court Administrator if that person:

- (a) is zanzibari;
- (b) has at least bachelor degree in public administration, law, finance, business administration or other related fields;
- (c) has an experience of at least seven years in the public service;  
and

(d) is of high integrity and good character.

(4) The Chief Court Administrator shall be the head of the general administration of the Judiciary.

(5) The Chief Court Administrator shall:

(a) be the Chief Executive Officer of the Judiciary; and

(b) be responsible to the Chief Justice for the day to day administration of the judicial service.

(6) The Chief Court Administrator shall hold office on such terms and conditions as the President shall determine.

Functions of the Chief Court Administrator

**8.**-(1) The functions of the Chief Court Administrator shall be to:

(a) carry out the general administration of the judicial service including planning, human resources, management and administration;

(b) prepare and submit quarterly reports on the administration of the judicial service to Chief Justice and the Commission;

(c) carry out decisions of the Commission; and

(d) perform functions and exercise such other powers as is or may be conferred on him by or under this Act or any other written laws.

(2) Notwithstanding the provisions of this section, the powers of the Chief Court Administrator shall not extend to any matter assigned by law to judicial officers.

Performance of functions and exercise of powers of Chief Court Administrator.

**9.**-(1) Where the Chief Court Administrator is temporarily absent, or the office of the Chief Court Administrator is vacant, or the Chief Court Administrator is unable to perform the functions or exercise his powers, the Chief Justice shall:

- (a) if the Chief Court Administrator is temporarily absent for a period not exceeding one month appoint any person, from amongst senior persons employed in the judicial service to perform functions and to exercise the powers of the Chief Court Administrator, and inform the Commission accordingly;
- (b) if the office of the Chief Court Administrator is vacant, refer the matter to the Commission for appointment of a person to act in that position, and shall inform the President accordingly; or
- (c) if the Chief Court Administrator is unable to perform his functions or exercise powers for more than one year, shall inform the President accordingly.

(2) A person appointed to act in the position of the Chief Court Administrator shall have the same qualifications referred to in section 7(3).

**10.-(1)** The Commission may appoint in every Region an Assistant Court Administrator whose terms and conditions of service shall be prescribed in his letter of appointment.

Assistant  
Court  
Admini-  
strator.

(2) The Assistant Court Administrator shall have similar qualifications required for the Chief Court Administrator.

(3) The Assistant Court Administrator shall perform such functions and undertake assignments as may be directed by the Chief Court Administrator.

(4) For the purposes of implementation of section 9, an Assistant Court Administrator shall carry out the day to day administration of the judicial service at the Court where that Assistant is posted, and shall:

- (a) prepare and submit quarterly reports on the administration of the judicial service to the Chief Court Administrator;
- (b) advise Chief Court Administrator on matters relating to finance, procurement and other non-judicial functions; and
- (c) manage funds allocated for the Court to which that Assistant is posted.

(5) In the performance of the duties stipulated in subsection (3), the Assistant Court Administrator shall be responsible to the Chief Court Administrator and the Judge in-charge or the Magistrate in-charge, as the case may be.

Judicial  
Service  
Commission.

**11.**-(1) There shall be the Judicial Service Commission as established by the Constitution.

(2) The composition of Judicial Service Commission shall be as provided in the Public Service Act.

(3) The Secretary to the Judicial Service Commission shall be responsible for securing and facilitating the implementation of decisions of the Commission.

(4) A member of the Commission shall not be represented in a meeting by a proxy and a member shall not delegate the performance of any function or the exercise of a duty ordinarily performed by him or exercised by him by virtue of being member of the Commission to any person.

(5) The conduct of meetings and the procedure for making decision by the Commission shall be as provided for in the First Schedule to this Act.

(6) The Judicial Service Commission, in performance of its functions, shall have frequent consultations with the Chief Justice.

**12.-(1)** The Commission shall, in addition to the powers conferred on it by the Public Service Act, have and exercise powers and authority in relation to the appointment, confirmation, promotion and discipline.

Powers of the Commission.

(2) The Commission shall, for the purposes of recruitment, confirmation, promotion and discipline, establish an Employment Advisory Committee.

(3) The Commission shall decide on the composition and modalities of the Employment Advisory Committee and prescribe rules for the better carrying into effect its functions.

(4) A judicial or non-judicial officer who is aggrieved by the decision of the Commission with respect to the exercise of its powers may appeal to the Public Service Commission.

**13.-(1)** The functions of the Commission shall be to:

Functions of the Commission.

- (a) recommend to the President in respect of:
  - (i) appointment of the Judges;
  - (ii) appointment of the Chief Court Administrator and Registrar;
  - (iii) suspension of a Judge;
- (b) report to the President on misconduct by the Chief Court Administrator or Registrar which is inconsistent with the ethics of their respective offices or with the law governing ethics of public leaders;
- (c) recommend to the Chief Justice in respect of inability of a Judge to perform functions of the office; or report to the Chief Justice on misconduct of a Judge;
- (d) scrutinize a complaint against a judicial officer and non-judicial officer;

- (e) take administrative and disciplinary measures against a Judge other than measures referred to under the Constitution;
- (f) appoint the Registrar of Kadhi's Court and judicial officers other than Chief Justice, Judge, Chief Kadhi, Deputy Chief Kadhi and Appellate Kadhi;
- (g) promote any judicial officer;
- (h) discipline any Magistrate or Kadhi; and
- (i) recruit, confirm the employment, promote and take any disciplinary or administrative measures against any non-judicial officer.

(2) The Commission shall propose and recommend to the Government salaries and remuneration of judicial and non-judicial officers in the Judiciary Service.

Review of  
benefits.

**14.** Where it is desirable and necessary to review salaries, allowances, benefits and terms and conditions of services of employees of the judicial service, the Commission shall review salaries, allowances, benefits and the terms and conditions of service, and make recommendations to the Government.

Delegation  
of functions.

**15.-(1)** Subject to the provisions of this Act, the Commission may, by regulations, delegate the exercise of any function conferred on it, except those functions conferred on it by the Constitution, to the Committees established or which may be established under this Act.

(2) Without prejudice to the provisions of subsection (1), the Commission may delegate its functions as follows:

- (a) investigation and inquiry of complaints against Judges to the Judges Ethics Committee established under this Act;

- (b) investigation and inquiry into discipline relating to other judicial officers and nonjudicial officers to the Judicial Employees Ethics Committee established under this Act.

(3) In any regulations made for the purpose of this section, the Commission shall specify the officers to which each delegation applies.

(4) The Commission may exercise any of such functions aforesaid notwithstanding the delegation of the exercise thereof to some other person.

(5) In conducting business, the Commission shall be guided by the procedure stipulated in the First Schedule to this Act.

**16.-(1)** The powers to remove from office or terminate the appointments of judicial officers and non-judicial officers, other than the Chief Justice, Judges of the High Court, the Registrar, the Court Administrator and Chief Kadhi, shall be exercised in accordance with this section.

Powers of dismissal and removal.

(2) A judicial officer and nonjudicial officer shall not be dismissed unless the Commission is satisfied that:

- (a) a disciplinary charge has been made and proved on a balance of probability against such officer on any or all of the following grounds:
  - (i) misconduct incompatible with the holding of judicial office or non-judicial office;
  - (ii) gross negligence in the discharge of judicial duties or non-judicial duties;
  - (iii) breach of the Code of Ethics; or
  - (iv) bad reputation incompatible with the holding of judicial office or non-judicial office;

(b) such officer has had an opportunity to answer a charge under paragraph (a); and

(c) an inquiry has been held into the charge.

Oaths.

**17.-(1)** The Chairman, members of the Commission and the Secretary shall, on appointment, subscribe to the oath or affirmation in the form set out in the Second Schedule to this Act.

(2) The Chairman of the Commission may require a member of the Secretariat of the Commission to take, on first appointment, an oath or affirmation in the form set out in the Second Schedule to this Act.

(3) Where the Chairman or any member of the Commission or the Secretary to the Commission required to take an oath or affirmation under this section has no religious belief, or the taking of an oath or affirmation is contrary to his religious belief, may make and subscribe a solemn affirmation in the form of the oath or affirmation appointed, substituting the words "solemnly and sincerely declare and affirm" for the word "swear" and omitting the words "So help me God".

(4) An oath or affirmation subscribed by the Chairman or a member of the Commission shall be administered by the Chief Justice and every oath or affirmation subscribed by the Secretary or a member of Secretariat shall be administered by the Chairman of the Commission.

Vacancy in  
Membership  
and  
Decision.

**18.-(1)** Subject to its rules of procedure, the decisions and actions of the Commission shall not be invalid by reason only of vacancy in its membership or the absence of any member.

(2) Notwithstanding the provisions of subsection (1), a decision of the Commission shall require the concurrence of a majority of the members present.

19. Subject to the provisions of this Act, or to any regulation made by the Chief Justice, the Commission shall regulate its own procedure. Procedure.

20. A member of the Commission shall, in case of any action or suit brought against that member for an act done or omitted to be done in good faith in the execution of duties, have like protection and privileges as is by law given to the acts done or words spoken by a Judge of the High Court in the performance of a judicial function. Protection.

21. A person shall not, in any legal proceedings, be permitted or compelled to produce or disclose any communication, written or oral, which has taken place: Communi-  
cation of  
Commi-  
ssion to be  
privileged.

(a) between the Commission, or any member or officer of the Commission, or the Public Service Commission, or any member of either such Commission;

(b) between any member or officer of the Commission and the Chairman thereof; or

(c) between any member or officers of the Commission, in exercise of, or in connection with the performance of, the powers or functions of the Commission,

unless the Chairman of the Commission consents in writing to such production or disclosure.

### **PART THREE CHIEF JUSTICE AND REGISTRAR**

22.-(1) The Chief Justice shall be the head of Judiciary, and shall, in addition to functions provided for under the Constitution or any other written law, perform functions and exercise powers provided for under this Act. Chief  
Justice and  
the  
Steering  
Committee.

(2) There shall be a Steering Committee of the Judiciary whose members are the Chief Justice and other members appointed by him.

(3) The Chief Justice shall be the Chairman of the Steering Committee.

(4) The Steering Committee shall:

- (a) advise the Chief Justice on matters relating to general administration of the Judiciary;
- (b) advise the Chief Justice on the budget estimates of the Judiciary; and
- (c) advise the Chief Justice on any matter which he may request for an advice.

(5) The Chief Justice shall convene the Meetings of the Steering Committee.

(6) The Chief Court Administrator shall be the Secretary of the Steering Committee.

Powers of  
the Chief  
Justice.

**23.**-(1) The Chief Justice shall, for the purpose of achieving better, effective and efficient performance of the functions of the offices of Judges of High Court and Magistrates, supervise the disposal and management of cases.

(2) In the exercise of powers of supervision, the Chief Justice may:

- (a) call for any Judicial Officer other than Kadhi to submit returns of the disposition of cases within a specified period;
- (b) receive and investigate any complaint relating to the disposal of any case;
- (c) take any such measures as may be necessary to address any matter which is subject of a complaint;

- (d) convene a case management meeting; or
- (e) refer any matter which is subject of complaint to the Commission; or

(3) The Chief Justice may, in relation to the management of the Judiciary, delegate any of the powers and functions under this section to Judges In-charge.

**24.**-(1) The Chief Justice shall be responsible for overseeing performance of judicial functions of the courts, including the giving of directives, supervision over court sittings and the assignment of judicial duties. Responsibilities of the Chief Justice.

(2) The direction of duties shall include, without restricting the generality of those terms, the power to:

- (a) determine the sittings of the court;
- (b) assign judges to sittings;
- (c) assign cases and other judicial duties to judges;
- (d) determine the sitting schedules and places of sittings for judges;
- (e) determine the total annual, monthly and weekly work load of judges; and
- (f) prepare hearing lists and assign courtrooms.

(3) Non-judicial officers shall act at the directives of the Chief Justice in matters that are assigned by law to the Judiciary.

(4) The persons referred to in subsection (3) who are assigned duties in a courtroom shall, on the directives of a judge who is presiding over proceedings in the courtroom, discharge such duties.

Registrar.

**25.**-(1) There shall be a Registrar of the High Court appointed by the President upon recommendation by the Commission.

(2) For the purpose of subsection (1), the Commission shall recommend to the President not less than three names from which the President shall appoint the Registrar.

(3) A person shall qualify for appointment as the Registrar if that person:

- (a) is Zanzibari;
- (b) has at least a bachelor degree in law;
- (c) has practiced in the field of law for a period of not less than seven years; and
- (d) is of high integrity and good character.

(4) The Registrar shall be assisted by the Deputy Registrars appointed by the Commission.

(5) The Deputy Registrars shall have similar qualifications required for the Registrar.

(6) The Registrar shall be responsible to the Chief Justice for effective performance of the judicial functions.

Functions  
of the  
Registrar.

**26.**-(1) Without prejudice to the generality of subsections (4) and (5) of section 25, the Registrar shall:

- (a) facilitate and supervise performance of the judicial functions;
- (b) coordinate judicial matters;
- (c) synchronize, synthesize and produce comprehensive performance report of the judicial functions;

- (d) provide a link between the Judiciary and the Commission on appointment, promotion and disciplinary matters of judicial officers;
- (e) communicate to the Government on matters relating to judicial profession, or any other matters which the Government may be concerned.

(2) For the purpose of subsection (1), the Deputy Registrars shall be responsible to the Registrar and shall, in that respect, perform functions and carry out duties as may be assigned to them by the Registrar.

(3) The Registrar shall:

- (a) prepare annual calendar of the Court;
- (b) discharge such duties as provided for under any written law or the Court Rules;
- (c) draw court orders or decrees as directed by the Court;
- (d) execute or ensure compliance with court's orders;
- (e) be, and discharge duties of a taxing master;
- (f) supervise duties relating to the court as delegated to Deputy Registrars; and
- (g) perform other functions as prescribed under any other law.

#### **PART FOUR ESTABLISHMENT OF ETHICS COMMITTEES**

**27.** The Judicial Services Commission shall have the Ethics Committees of two different levels which shall be responsible for

Ethics  
Commi-  
ttees.

making investigations and inquiries against judicial officers and non-judicial officers.

***(a) Judges Ethics Committee***

Establishment and composition of the Judges Ethics Committee.

**28.**-(1) The Commission may, in ad hoc basis, establish the Judges Ethics Committee which shall be composed of the following members:

- (a) a Senior Judge of the High Court appointed by the Commission in consultation with the Chief Justice Chairman;
- (b) a Judge of the High Court appointed by the Commission - Member;
- (c) a person who has qualifications to be a Judge of the High Court appointed by the Commission - Member; and
- (d) the Registrar shall be the Secretary to the Judges Ethics Committee.

(2) The Judges Ethics Committee shall not delegate the performance of any function or the exercise of any power to any person.

(3) A Judge shall not be a Chairman nor a member of the Judges Ethics Committee if he is subject of complaint under investigation and inquiry.

Functions of the Judges Ethics Committee.

**29.**-(1) The functions of the Judges Ethics Committee shall be to:

- (a) receive and investigate complaints against a Judge;
- (b) serve a Judge concerned with a complaint;
- (c) hear the complaint;
- (d) recommend to the Commission measures to be taken against a Judge in relation to minor complaints; and

(e) take any other measures as it may deem necessary in the circumstances.

(2) A complaint against a Judge which the Judges Ethics Committee considers to be grave shall be submitted to the Commission and to the Chief Justice for consideration.

(3) In conducting business, the Judges Ethics Committee shall be guided by the procedures stipulated in the Third Schedule to this Act.

**30.**-(1) A complaint against Judge may be raised by:

Complaints  
before the  
Judges  
Ethics  
Committee.

(a) anyone of the following complainants:

- (i) judicial officer;
- (ii) a non-judicial officer;
- (iii) a Government institution;
- (iv) an advocate or vakil;
- (v) a person who has an interest in the matter; or

(b) in any other case, a person who can produce adequate evidence on the complaint.

(2) A complaint against a Judge shall be filed with the Chief Court Administrator who shall refer such complaints to the Commission, and the Commission shall deal with that complaint according to section 32.

**31.**-(1) A complaint shall be made in writing and shall be signed by the complainant.

Form and  
content of  
complaint.

(2) A complaint shall contain adequate information disclosing an act or omission complained about and circumstances upon which that act or omission was committed.

(3) Without prejudice to subsection (2), a complaint may be made regarding any of the following matters:

- (a) handling of cases;
- (b) allegation of corruption;
- (c) behavior inconsistent with the Code of Judicial Ethics; or
- (d) inability to perform the functions of a Judge.

(4) A complaint shall not be rejected only for the reason that it is defective in form.

Procedure  
of handling  
complaints  
by the  
Commission.

**32.** The Commission may, upon receipt of a complaint and where the Commission considers it appropriate so to do:

- (a) form the Judges Ethics Committee and remit the complaint against the Judge to the Chairman of that Committee;
- (b) serve a Judge concerned with the complaint and require him to respond within a period not exceeding twenty-one days; or
- (c) in a matter which is minor and does not warrant a reference to the Chief Justice, take such steps as may be necessary to address the complaint.

Handling  
of a  
complaint  
by the Judges  
Ethics  
Committee.

**33.** The Judges Ethics Committee may, upon receipt of any complaint from the Commission, where:

- (a) appropriate, serve a Judge concerned with the complaint and ask him to respond within a period not exceeding twenty-one days; and
- (b) considers it desirable, cause investigation to be made on the complaint and inquire into the matter.

**34.** Where a matter is placed before the Judges Ethics Committee and the Judge concerned does not admit the complaint, and after investigation and inquiry, the Judges Ethics Committee considers the complaint to be of a grave nature, shall submit the report of the inquiry on the matter to the Commission and to the Chief Justice.

Procedure where a Judge does not admit complaint.

***(b) Judicial Employees Ethics Committee***

**35.**-(1) There is established the Judicial Employees Ethics Committee for judicial officers and non-judicial officers, other than Judges of the High Court, the Chief Court Administrator, Chief Kadhi and Deputy Chief Kadhi, and shall be composed of the following members:

Establishment and composition of the Judicial employees Ethics Committee.

(a) a Senior Judge of the High Court appointed by the Commission in consultation with the Chief Justice - Chairman;

(b) one Senior Magistrate appointed by the Commission - Member;

(c) one Kadhi appointed by the Commission - Member; and

(d) two non-judicial officers appointed by the Commission - Members.

(2) The Deputy Registrar appointed by the Commission, shall be the Secretary to the Judicial Employees Ethics Committee.

(3) Members of the Committee shall hold office for three years, but shall be eligible for re-appointment for one further term.

(4) The Committee shall not delegate the performance of function or the exercise of any power to any person.

(5) The Deputy Registrar against whom a complaint has been lodged, shall not act as secretary to the Committee which determines that complaint.

(6) A judicial officer and non-judicial officer against whom a complaint has been lodged, shall not sit as a member of the Committee which determines that complaint.

Functions  
of the  
Judicial  
Employees  
Ethics  
Committee.

**36.**-(1) The functions of the Judicial Employees Ethics Committee shall be to:

- (a) receive complaints against judicial officers and non-judicial officers other than Judges of the High Court, the Chief Court Administrator, Chief Kadhi and Deputy Chief Kadhi;
- (b) receive a complaint from the Commission;
- (c) serve a judicial officer or non-judicial officer with a complaint;
- (d) inquire into the complaint; and
- (e) submit to the Commission and to the Chief Justice report of the inquiry on the complaint;

(2) In conducting its business, the Judicial Employees Ethics Committee shall be guided by the procedure stipulated in the Third Schedule to this Act.

Complaints  
before  
Judicial  
Employees  
Ethics  
Committee

**37.**-(1) A complaint against a judicial officer or non-judicial officer may be raised by:

- (a) the Judicial Employees Ethics Committee on its own motion;
- (b) anyone of the complainants stipulated in section 30; or
- (c) may be remitted to it by the Commission.

(2) A complaint against Magistrate, Kadhi or non-judicial officer shall be filed with the Chief Court Administrator who may either take disciplinary measures for matters within the scope of his jurisdiction or forward that complaint to the Commission and inform the Chief Justice.

**38.** The provisions of sections 31, 32, 33, and 34 relating to the complaints procedure shall mutatis mutandis apply to complaints against judicial officers and non-judicial officers in the Judicial Employees Ethics Committee. Procedure.

## **PART FIVE FINANCIAL PROVISIONS**

**39.**-(1) There is established for purposes of the Judiciary, a special fund to be known as the Judiciary Fund. Establish-  
ment of the  
Judiciary  
Fund.

(2) Subject to the provisions of the Constitution, the sums of money approved for purposes of the Judiciary shall be paid by the Treasury into the Judiciary Fund.

(3) The overall administration and control of the Judiciary Fund is vested in the Accounting Officer to be appointed by the Pay Master General.

**40.**-(1) Without prejudice to the provisions of section 39, the Judiciary may receive for and on behalf of the Judiciary, any lawful grant made for the purpose of the Judiciary. Grants.

(2) Any sums received as grant made to the Judiciary pursuant to subsection (1), shall be subject to the requirements of the Public Finance Act.

**41.**-(1) Prior to each fiscal year, the Chief Justice shall direct the Accounting Officer to prepare estimates of the sum of money which the Judiciary will require for the payment of various costs and expenses to be incurred by it, during the fiscal year for the following purposes: Budget  
of the  
Judiciary.

- (a) administrative and support services provided to the Judiciary;
- (b) funding requirements for Judiciary purpose.

(2) In preparing estimates the Accounting Officer shall consider the following:

- (a) the nature, quantity and quality of administrative service and support service required for the effective operation of the Judiciary;
- (b) the nature, quantity and quality of the administrative service and support service which Judiciary requires powers for the effective performance of its Constitutional function; and
- (c) the need for fiscal responsibility.

(3) The Accounting Officer shall prepare the estimate for Judiciary within the funding requirement for the Judiciary for the relevant fiscal year.

Negotiations  
on budget  
estimates  
and  
submission.

**42.**-(1) The Accounting Officer shall present the budget estimates as adopted by the Steering Committee to the Treasury for negotiations.

(2) Upon completion of the negotiations under subsection (1), the Accounting Officer shall submit the budget estimates agreed upon by the treasury to the Minister responsible for legal affairs for the purposes of seeking approval of the House of Representatives.

Accounts  
and Audit.

**43.**-(1) The Accounting Officer shall cause to be kept proper books of accounts and shall, within and not later than three calendar months after the end of each financial year, cause to be prepared a statement of income and expense during the financial year.

(2) The accounts relating to the operations of the Judiciary Fund on the last day of the financial year shall be submitted for audit by the Controller and Auditor General in accordance with the Public Finance Act.

**44.** For the proper management and financial control of the operations of the Judiciary Fund, the Chief Court Administrator shall ensure that, the provisions of the Public Finance Management Act and Public Procurement and Disposal Act are complied with.

Management and control of the Judicial Fund.

## **PART SIX OFFENCES AND PENALTIES**

**45.**-(1) Without prejudice to the provisions of any other law, any person who otherwise than in the course of his duty directly or indirectly by himself or by any other person, in any manner whatsoever, influences or attempts to influence any decision of the Commission, shall be guilty of an offence and upon conviction, is 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 six months but not exceeding of one year.

Offence to influence or attempt to influence Commission.

(2) Nothing in this section shall prohibit any person from giving a certificate or testimonial to any applicant or candidate for any office or from supplying any information or assistance at the request of the Commission.

**46.** Without prejudice to the provisions of any other law, any person who in connection with the exercise by the Commission of its functions or duties willfully gives to the Commission any information which he knows to be false or does not believe to be true, or which he knows to be false by reason of the omission of any particular material, shall be guilty of an offence and upon conviction, is liable to a fine of not less than One Million Shillings but not exceeding Two Million Shillings or to imprisonment for a term of not less than one year but not exceeding two years.

Offence of false information to the Commission.

**47.** For the purposes of sections 45 and 46, the term "Commission" shall include the Commission, a member of the Commission, Secretary, a Committee of the Commission, an officer of the Commission or a person or body of persons appointed to assist the Commission in the exercise of its functions or duties.

Construction of the term "Commission".

Unauthorized disclosure of information prohibited.

**48.**-(1) A member of the Commission, or an officer of the Commission, or any other person, shall not, without the written permission of the Chairman of the Commission, publish or disclose to any person otherwise than in exercise of his official functions the contents of any document, communication or information whatsoever which has come to his notice in the course of his duties in relation to the Commission, and a person who knowingly acts in contravention of the provisions of this subsection, is guilty of an offence, and upon conviction, is 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 six months but not exceeding one year.

(2) A person who knows any information which to his knowledge has been disclosed in contravention of the provisions of subsection (1) and who publishes or communicates it to any other person otherwise than for the purpose of any prosecution under this Act or in the course of his official duty, is guilty of an offence and upon conviction, is 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 six months but not exceeding one year.

Consent of the Director of Public Prosecutions.

**49.** A prosecution in respect of any offence under this Part shall not be instituted except with the consent of the Director of Public Prosecutions.

## PART SEVEN GENERAL PROVISIONS

Regulations.

**50.**-(1) The Chief Justice may make regulations for the administration of the Judiciary.

(2) Without prejudice to the generality of sub section (1), the regulations may:

- (a) require persons to attend before the Commission to answer questions relating to the exercise of powers by judicial officers;

(b) make different provisions for different levels of judicial officers; and

(c) prescribe the Code of Conduct and Ethics for judicial officers and non-judicial officers;

(3) Regulations made under this Act shall be published in the Gazette.

**51.** Section 6 of the High Court Act No. 2 of 1985 is hereby repealed. Repeal.

## **FIRST SCHEDULE** **(section 11 and 15)**

### **MEETINGS AND PROCEEDINGS OF JUDICIAL SERVICE COMMISSION**

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**1.**-(1) The Commission shall ordinarily meet for the transaction of its business at the time and at the places determined by it, but shall meet at least once every three months.

Meetings  
of  
Commi-  
ssion.

(2) The Chairman may, at any time on his own motion or upon a request by a majority of the members in office, call a special meeting of the Commission.

(3) The Chairman shall preside at every meeting of the Commission and in the absence of the Chairman the members present shall appoint one of their members to preside over the meeting.

(4) The Chairman may invite a person who is not a member to participate in executive the deliberations at any meeting of the Commission, but a person so invited shall not be entitled to vote.

**2.** The quorum at any meeting of the Commission shall be the majority of members in office.

Quorum.

Decisions  
of the  
Commission.

**3.-(1)** Questions proposed at a meeting of the Commission shall be decided by a majority of the votes of the members present, and in the event of an equality of votes, the person presiding shall have a casting vote in addition to his original or deliberative vote.

(2) Notwithstanding the provisions of sub paragraph (1), a decision may be made by the Commission without a meeting by circulation of the relevant papers among the members, by the expression in writing of the majority of the members.

Minutes of  
meetings.

**4.-(1)** The Secretary shall record and keep minutes of all business conducted or transacted at its meetings, and the minutes of each meeting of the Commission shall be read and confirmed, or amended and confirmed, at the next meeting whose minutes they purport to be.

(2) Minutes purporting to be signed by the person presiding at a meeting of the Commission shall, in the absence of proof of error, be deemed to be a correct record of the meeting whose minutes they purport to be.

Vacancies,  
not to  
invalidate  
proceedings.

**5.** The validity of any act or proceedings of the Commission shall not be affected by a vacancy among its members.

Orders and  
directives

**6.** Orders, directives, notices or other instruments made or issued on behalf of the Commission shall be signed by:

(a) the Chairman; or

(b) the Secretary or any other member of the Commission authorized in writing in that behalf by the Chairman.

Commis-  
sion may  
regulate  
its own  
proceedi-  
ngs.

**7.** Subject to the provisions of this Schedule, the Commission may regulate its own proceedings.

**SECOND SCHEDULE**  
**(section 17)**

**OATH OF A CHAIRMAN AND MEMBER**

I, .....having been appointed as Chairman/Member/Secretary/Member of the Secretariat, of the Judicial Service Commission, do swear/affirm/declare that I will freely and without fear or favour, affection or ill-will, discharge the functions of Chairman/Member/Secretary of the Commission, and that I will not directly or indirectly reveal any matters relating to such functions to any unauthorized person or otherwise than in the course of duty.  
SO HELP ME GOD

Sworn/Affirmed/Declared before me this .....day of.....20.....

.....  
Chairman/Member/Secretary of the Commission

**THIRD SCHEDULE**  
**(sections 29 and 36)**

**MEETINGS AND PROCEEDINGS OF THE JUDGES**  
**ETHICS COMMITTEE AND JUDICIAL**  
**EMPLOYEES ETHICS COMMITTEE**

1.-(1) The Committee shall ordinarily meet for the transaction of its business at the time and at the places determined by it.

Meetings  
of Commi-  
ttee

(2) The Chairman may, at any time upon his own motion or upon a request by a majority of the members in office, call a special meeting of the Committee.

(3) The Chairman shall preside at every meeting of the Committee and in the absence of the Chairman members present shall appoint one of their number to preside over the meeting.

(4) The Committee may invite a person who is not a member to participate in the deliberations at any meeting of the Committee, but a person so invited shall not be entitled to vote.

Quorum. 2. The quorum at any meeting of the Committee shall be half of the members in office.

Decisions of the Committee. 3. Questions proposed at a meeting of the Committee shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes the person presiding shall have a casting vote in addition to his original or deliberative vote.

Minutes of meetings. 4.-(1) The Committee shall cause to be recorded and kept minutes of all business conducted or transacted at its meetings, and the minutes of each meeting of the Committee shall be read and confirmed, or amended and confirmed, at the next meeting whose minutes they purport to be.

(2) Minutes purporting to be signed by the person presiding at a meeting of the Committee shall, in the absence of proof of error, be deemed to be a correct record of the meeting whose minutes they purport to be.

Vacancies, not to Invalidate proceedings. 5. The validity of any act or proceedings of the Committee shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.

Orders and directives 6. Orders, directives, notices or other documents made or issued on behalf of the Committee shall be signed by:

(a) the Chairman; or

(b) the Secretary or any other member authorized in writing in that behalf by the Chairman.

Committee may regulate its own proceedings. 7. Subject to the provisions of this Schedule, the Committee may regulate its own proceedings.

## OBJECTS AND REASONS

The objects and purpose of this Bill is to facilitate the management of Judiciary and Judicial Service Commission to enhance their independence in giving services; to be more impartial and subject only to the provisions of the Constitution and other laws; to facilitate the conduct of judicial process designed to render justice to all; to facilitate a judicial process that is committed to expeditious determination of disputes; to facilitate a judicial process that is committed to the just resolution of disputes; to support and sustain a judicial process that is committed to protection of the people and of their human rights; to promote and sustain fair procedures in its functioning and the operations of judicial process, and in particular, be guided in all cases in which it has responsibility of taking a decision affecting a judicial officer of any rank or its own employee, by the rules of natural justice; to be the administrative manifestation of judiciary's autonomy and inherent power to protect and regulate its own process, achieving these objects through application of principles set out in the Constitution and other laws and establishing a specific Judiciary Fund; to facilitate accessibility of judicial services to all Zanzibaris; and to apply modern technology in their operations.

The bill is divided into Seven Parts:

**Part One** provides for Preliminary Provisions which includes short title and commencement, application, interpretation of words invariably used in the Bill and standards of service.

**Part Two** proposes provisions relating to Administration. It explains the composition of judicial service. It provides for provisions dealing with judicial scheme of service, appointment of Chief Court Administrator, functions of the Chief Court Administrator and Assistant Court Administrators. This Part also details on provisions dealing with Judicial Service Commission, powers of the Commission, Oaths, procedure and protection. Also, this Part has detailed provisions about functions of the Commission. It also makes provisions for review of benefits, delegation of functions, powers of dismissal and removal.

**Part Three** creates provisions dealing with Chief Justice and Registrar. It sets out powers of the Chief Justice and Judicial functions. It provides for provisions relating to appointment of Registrar and functions of the Registrar.

**Part Four** makes provisions for establishment of Ethics Committees. It explains the composition of the Judges Ethics Committee and Judicial Employees Ethics Committee and their functions, complaints before those Committees, form and content of complaints. Also, it provides procedure of handling complaints by Chief Court Administrator.

**Part Five** is about financial provisions. It establishes the Judiciary Fund. It makes provisions for grants, budget of the Judiciary, presentation of budget estimates to the Commission, negotiations on budget estimates and submission. It further contains provisions for accounts and audit and also for management and control of the judicial fund.

**Part Six** has detailed provisions on offences and penalties. It creates various offences such as offence to influence or attempt to influence and an offence of false information to the Commission. Provision is made for construction of the term "Commission". This Part also has provisions for prohibiting unauthorized disclosure of information and consent of the Director of Public Prosecutions.

**Part Seven** provides general provisions as regards Regulations and performance of functions under this Act. It also repeals some sections in the High Court Act No. 2 of 1985 and the Public Service Act No. 2 of 2011.

The Bill also has three Schedules.

HAROUN ALI SULEIMAN  
Minister of State President's Office, Constitution, Legal Affairs,  
Public Service and Good Governance  
Zanzibar