

**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, POWERS, AND PROVIDE FOR OTHER
MATTERS CONNECTED THEREWITH**

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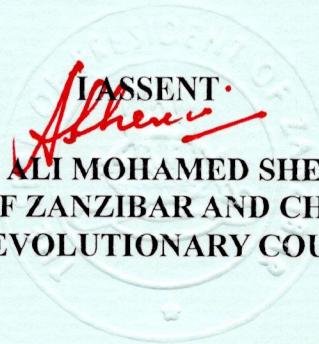
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ACT NO 1 OF 2017



{ DR. ALI MOHAMED SHEIN }
PRESIDENT OF ZANZIBAR AND CHAIRMAN OF
THE REVOLUTIONARY COUNCIL

28th March, 2017

**AN ACT TO REPEAL THE ZANZIBAR ELECTORAL COMMISSION
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ENACTED by the House of Representatives of Zanzibar.

**PART ONE
PRELIMINARY PROVISIONS**

Short title and com-
mencement. 1. This Act may be cited as the Establishment of the Zanzibar Electoral Commission Office Act of 2017, and shall come into operation immediately after being assented to by the President.

Interpretation 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 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 to which the electoral area shall be the whole of Zanzibar;

“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;

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

“Election” means as prescribed under Election Act;

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

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

“Minister” means the Minister responsible for Elections;

“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 TWO ELECTION COMMISSION

Establishment
and
Composition
of the
Commission

3. There shall be the Zanzibar Election Commission on which the functions and composition shall be as prescribed 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) For the better implementation of their functions, the Commission shall prepare, set and propose the structure of its Service Commission and its employees based on qualifications and functions of each employee.

(3) Subject to the provisions of subsection (1) of this section, the Commission shall, in the performance of its functions, adhere to the Constitution, Laws and Principles of Democracy and Good Governance.

Powers to supervise the Election campaigns

5. For the purpose of carrying out its functions, the Commission shall have the powers to regulate Election's Campaigns.

Powers to seek information

6.-(1) Subject to the provisions of this Act or any other Law relating to national security, the Commission may, by writing, require from any person or Institution any information which the Commission reasonably believes that the person or Institution posses such information.

(2) Any person, without reasonable excuse fails to provide to the Commission any information required under subsection (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 Two 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.

Powers to use buildings or premises

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.

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

Powers to establish Advisory Committee

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



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

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

Powers to
accredit
Observers.

9.-(1) The Commission may, in any Election or Referendum, upon special request and after being satisfied with the qualifications of the applicant, provide accreditation for election or referendum observation.

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

(5) Any person or Institution which conducts election observation without the permission of the Commission shall be liable to a fine of not less than three million shillings and not exceeding five million shillings or to imprisonment for a term of one year or to both such a fine and imprisonment and shall not be allowed to apply to be an election observer for the period of ten years.

Powers to
prepare rules
and guidelines

10. The Commission may, at any time where circumstances require on implementation of its functions, prepare guidelines.

PART THREE ESTABLISHMENT AND FUNCTIONS OF THE OFFICE

Establishment
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) acquiring, holding or disposing movable and immovable property;
- (b) entering into any contract or any other transactions; and



(c) doing or causing to do any other act and things which a body corporate may perform, do or cause to be done.

Seal and emblem.

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.

(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 the Director.

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

Director

13.(1) There shall be a Director who shall be appointed by the President.

(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 Secretary of the Commission who shall perform all day to day activities of the Office.

Qualifications of Director.

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

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

Tenure of the Director

15.- The Director shall hold office in accordance with the provisions of the Public Service Act.

Functions of the Director.

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

- (a) supervise and conduct day to day activities of the Office
- (b) prepare and coordinate Meetings of the Commission;
- (c) provide technical advice to the Commission in performing its functions;
- (d) prepare budgets and calendar of the business of the Commission;



- (e) maintain records of all meetings 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 researches 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.

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

Directorates

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

(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.

Secretariat

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

(2) The Secretariat shall be composed of-

- (a) the Director who shall be the head of secretariat;
- (b) Heads of Directorates; and
- (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 expert opinion.

Establishment
of the District
Election
Office

19.-(1) There is hereby established in each District of Zanzibar, a District Election Office which shall be headed by the District Election Officer.



(2) The District Election Officer shall be employed by the Commission in accordance with the provisions of the Public Service Act.

(3) The District Election officer shall be supervisor of the constituency or constituencies in his District during the period of Election.

(4) The District Election officer before assuming his functions, shall take an oath before Magistrate.

Functions
of Election
Office

20. The District Election Officer shall have the followings functions:

- (a) register the voters;
- (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) regulate voters' education activities in his District;
- (f) supervise election activities and referendum; and
- (g) do any other function as may be determined by the Commission under the provisions of this Act or any other law.

Other staff

21. The Commission may employ other staff of the office in such a number and terms for purpose of carrying out functions and duties in accordance with the provisions of the Public Service Act.

Transfer of
staff

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

PART FOUR 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.

Fund of the
Commission.

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

- (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 lawful means;



(2) The Director may, subject to the approval of the Minister responsible for finance, prepare the procedure of raising funds for Election activities.

Accounting
Officer

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

Accounts
and audit

26.-(1) The Director shall keep proper accounts of all receipts and expenditure of the Office in accordance with the Public Finance Act.

(2) The accounts 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 FIVE MISCELLANEOUS PROVISIONS

Report

27.-(1) The Commission shall, after the end of each General Election or Referendum, prepare and submit the report to the President within the period of twelve month (12).

(2) Subject to the subsection (1) of this section, the report shall contain all necessary information of the General Election or Referendum and any other information as the Commission may deem fit.

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

Ex-gratia
payment

28. Notwithstanding the provisions of this Act, when a member of the Commission or other staff is injured while performing election or referendum functions, shall be entitled to receive compensation on such terms and conditions as may be prescribed by the Regulations.

Offences and
penalties.

29. A person who -

- (a) willfully hinders or obstructs the member of the Commission or 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 duties 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.

Disclosing
information

30. 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 five hundred thousand shillings and not exceeding five million Shillings or imprisonment for a period of three years or both such fine and imprisonment.

Immunity

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

Remuneration
for members
and officers.

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 Public Service Act.

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

Regulations

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

(2) The Regulations made under this Act shall be published in the Official Gazette.

Repeal and
Saving.

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

(2) Notwithstanding the repealed Act under subsection (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.

PASSED by the House of Representatives of Zanzibar on 16 February, 2017

{Raya Issa Msellem}

Clerk of the House of Representatives of Zanzibar