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NOTICE

The Bill hereunder shall be presented before the House of Representatives for the first reading which will start its session on 15th February, 2023 and is gazetted together with its objects and reasons for public notice.

ZANZIBAR
24th January, 2023.

(Eng. Zena Ahmed Said)
***Secretary to the Revolutionary
Council and Chief Secretary***

A BILL

for

**AN ACT TO ESTABLISH THE ZANZIBAR
COMMUNICATION CORPORATION AND
TO MAKE PROVISIONS FOR PROVIDING
ICT INFRASTRUCTURE AND OTHER
MATTERS CONNECTED THERE WITH**

ENACTED by the House of Representatives Zanzibar

PART ONE PRELIMINARY PROVISIONS

Short
title and
Commen-
cement.

1. This Act may be cited as the Zanzibar Communication Corporation Act, 2023 and shall come into operation upon being assented to by the President and published in the Gazette.

Application.

2. Notwithstanding the provisions of any other laws, this Act shall apply to all matters relating to Information Communication Technology and its Infrastructure in Zanzibar.

Interpretation.

3. In this Act, unless the context otherwise requires:

“Board” means the Board of Directors of the Corporation established under section 8 of this Act;

“Capacity” means a bandwidth of consumed information expressed in multiples of bits per second and is categorized as data bandwidth, digital bandwidth or network bandwidth;

“Corporation” means the Zanzibar Communication Corporation established under section 4 of this Act;

“Data Center” means a facility composed of networked computers, servers, storage and associated components such as telecommunications systems, redundant power supply, environment, organizations and business to store, process and distribute big amounts of data;

“Director General” means a Director General of the Corporation appointed under section 20 of this Act;

“Domain Name” means a unique alpha-numeric designation used to access computer on the internet and all domain names located by relevant authorities;

“Government” means the Revolutionary Government of Zanzibar;

“ICT” means Information Communication Technology;

“ICT Infrastructure” means fiber optic backbone, Data Center, telecommunication towers Base Transceiver Station and such other telecommunication infrastructure as determined by the Minister;

“Last mile connectivity” means the terminal portion of the telecommunications network chain that physically reaches the end-user’s premises;

“Minister” means the Minister responsible for Communication;

“National Data Center” means Data Center facility owned by the Government;

“Open Access” means a portion of ICT Infrastructure used to connect end users or device for the purpose of delivering ICT services and the access can be in the form of wire or bandwidth;

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

PART TWO

ESTABLISHMENT OF THE CORPORATION

4.-(1) There is hereby established a Corporation known as the Zanzibar Communication Corporation and in its acronym shall be “ZICTIA”. Establishment of the Corporation.

(2) The Corporation shall be a body corporate which has perpetual succession, common seal and in its name, subject to the provisions of the Office of Treasury Registrar and Public Asset Management Act, No. 6 of 2021 be capable of:

- (a) acquiring, holding, purchasing and disposing of property for carrying out the purposes of the Corporation;

- (b) suing and being sued;
- (c) entering into any contract or any other transaction for the purpose of performing the functions or exercising the powers of the Corporation;
- (d) investing;
- (e) borrowing, lending or receiving grants of any such sum of money from any financial institution for the purpose of carrying out the business of the Corporation in accordance with provisions of the Public Finance Management Act, No. 12 of 2016; and
- (f) performing or doing any act or thing which the Corporation by its nature may by the law perform.

Seal and
Logo of the
Corporation.

5.-(1) There shall be a common seal and logo of the Corporation in a shape and size as may be determined by the Board.

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

(3) Any document purporting to be an instrument issued by the Corporation shall be sealed with the seal of the Corporation and authenticated in accordance with the provisions of the subsection (2) of this section.

Objectives
of the
Corporation.

6. The objectives of the Corporation shall be, to:

- (a) enhance and improve the contribution of ICT infrastructure to economic and social development in Zanzibar;
- (b) provide affordable, sustainable, secured and convergent ICT infrastructure service delivery to the public;
- (c) improve and maintain development of ICT infrastructure services; and

- (d) conduct social and environmental impact assessment for protections and solutions to possible hazards for the ICT infrastructure.

7.-(1) The functions of the Corporation shall be, to:

Functions
of the
Corporation.

- (a) enhance safety, cyber-security and defence, economic and commercial viability of National ICT services through promotion of effective management, maintenance as determined in accordance with this Act;
- (b) manage and maintain the Zanzibar National Data Center;
- (c) manage and maintain Zanzibar domain name;
- (d) manage and maintain domain name in Zanzibar;
- (e) manage and maintain Zanzibar Internet Exchange Point;
- (f) provide guidelines for ICT infrastructures;
- (g) plan and develop ICT infrastructures;
- (h) provide open access and connectivity of ICT infrastructures to all government institutions, mobile network operators and internet service providers or any other customers;
- (i) provide technical support services to customers of the Corporation;
- (j) charge fee for services rendered by the Corporation;
- (k) provide consultancy and engineering or technical support services on matters relating to information and communications technology (ICT) to government institutions, large and small corporate and small and medium enterprises (SME) as well as local authorities or other bodies;

- (l) promote local and foreign investment in ICT services;
- (m) conduct research relating to ICT development;
- (n) plan, build, operate and maintain strategic ICT infrastructures as determined by the Government.
- (o) conduct awareness to sensitize the public on the sense of ICT infrastructures; and
- (p) perform such other functions incidental to, or necessary for given effect to the provisions of this Act.

(2) In the course of performance of its functions, the Corporation shall operate on sound commercial principle and observe generally accepted ICT specific industries or professional rules and regulations.

PART THREE ADMINISTRATION AND MANAGEMENT OF THE BOARD

Establishment and Composition of the Board.

8. There shall be a Board of Directors of the Corporation which shall be composed of:

- (a) Chairperson who shall be appointed by the President in accordance with competitive procedures;
- (b) Director General; and
- (c) five other members who shall be appointed by the Minister subject to the provisions of the Office of Treasury Registrar and Public Asset Management Act, No. 6 of 2021.

Qualifications of the Chairperson.

9. A person shall qualify to be appointed as the Chairperson of the Board if that person:

- (a) is a Zanzibari;
- (b) has at least first degree from a recognized institution by the Government;
- (c) has working experience of at least five years and high level of competence to manage effectively affairs of the public or private bodies; and
- (d) has high level of integrity.

10. The members of the Board shall elect one among them to be a Vice - Chairperson of the Board. Vice -
Chairperson.

11.-(1) The Board shall appoint a Senior Public Servant with the following qualifications to be a Secretary to the Board: Secretary of
the Board.

- (a) has at least first degree from the University recognized by the Government;
- (b) must have high level of integrity; and
- (c) must be able to keep secret.

(2) The Secretary of the Board shall be accountable to the Board, and shall:

- (a) take the accurate minutes of the meetings of the Board;
- (b) maintain the correct and sufficient records of the Board;
- (c) give proper notifications of the meeting of the Board to the members; and
- (d) perform any other function as directed by the Board.

12.-(1) Subject to the provisions of the Office of Treasury Registrar and Public Asset Management Act, No. 6 of 2021, the Board shall have the following responsibilities, to: Responsibi-
lities of the
Board.

- (a) formulate, control and supervise policies of the Corporation;
- (b) oversee the functions of the Corporation provided under the provisions of this Act;
- (c) advise the Minister on the management of the ICT, its infrastructure and services provided by the Corporation;
- (d) approve budget, financial regulations, work plan and other internal policies of Corporation;
- (e) provide directives to the Corporation;

- (f) supervise the ethics, professionalism and morality of the staff of the Corporation;
- (g) ensure that the Corporation has put in place the strategic plan, risk mitigation plan and measures aiming to improve performance;
- (h) ensure prudence in controlling the risks and managing properties;
- (i) comply with applicable laws, rules, codes of conduct and best practice standards;
- (j) act for the best interests of the Corporation and Government;
- (k) formulate and implement business rescue procedures when the Corporation becomes financially distressed;
- (l) ensure that the Corporation has the necessary financial and human resources strategies to meet its objectives;
- (m) oversee major capital expenditures;
- (n) supervise and review management performance of the Corporation;
- (o) approve codes of ethics, staff and financial regulations;
- (p) encourage morality and professionalism for staffs, management and Board members;
- (q) deliberate the disciplinary complaints of the staffs according to the Public Service Act, No. 2 of 2011; and
- (r) perform any other functions which deems necessary.

(2) The Board shall be accountable to the Minister.

Tenure of the
members the
Board.

13. Except for ex-official member, the Chairperson and other Board members shall hold office for a term of three years from the date of appointment and may be eligible for re-appointment for another term only.

- 14.**-(1) The Board shall establish Audit Committee and any other committees as may determine. Committees of the Board.
- (2) The members of the Committee shall be among the Board members only.
- (3) The Board may invite any person to assist the committees of the Board to perform its functions.
- 15.**-(1) The Board may, if deems fit for the proper discharging of its functions, delegate some of its functions to the Director General or the Committee of the Board. Delegation of functions of the Board.
- (2) Where the Board delegates its functions under subsection (1) of this section, it shall give directives in writing as may be necessary to ensure the proper performance of the functions.
- 16.** Subject to the Office of Treasury Registrar and Public Asset Management Act, No. 6 of 2021, the chairperson and other members shall be paid such allowances and other remuneration. Allowances of the members.
- 17.** The Minister may give directions of a general nature to the Board and management relating to policy issues to the Corporation. Powers of the Minister.
- 18.** Provisions relating to proceedings of the Board shall be as prescribed in the Schedule of this Act. Proceedings of the Board.
- 19.**-(1) There shall be the Director General of the Corporation who shall be appointed by the President in accordance with the competitive procedures . Director General.
- (2) The Director General shall be the Chief Executive Officer and Accounting Officer of the Corporation.
- 20.** A person shall qualify to be appointed as the Director General if that person: Qualifications of the Director General.
- (a) is a Zanzibari;
 - (b) holds at least a first degree in information communication technology, computer science, management or

equivalent thereto from any recognized University by the Government;

- (c) has working experience at least seven years; and
- (d) has high level of integrity.

Functions of
the Director
General.

21.-(1) The Director General shall be responsible for day-to-day management of activities and coordination of functions of the Corporation.

(2) Without prejudice to the generality of functions of the Corporation, the Director General shall be responsible for:

- (a) implementing policies and programs of the Corporation relating to ICT infrastructure and services;
- (b) supervising and managing the funds and properties of the Corporation;
- (c) exercising supervision and control of the employees in matters of operation and administration of the Corporation;
- (d) acquiring relevant operating licenses to establish business for adding value to the Corporation core functions; and
- (e) carrying out any trade, business activity and do anything of any nature which can, in the opinion of the Board, be advantageous to the Corporation.

Delegation
of certain
function.

22. Without prejudice to any provision of this Act, the Director General may delegate in writing some of his functions to the staffs of the Corporation.

Powers of
the Director
General.

23. In implementing the functions specified under this Act subject to the directions of the Board, the Director General shall have power, to:

- (a) allocate functions of the staffs of the Corporation;
- (b) establish guidelines for ICT infrastructure and services;
and
- (c) establish a mechanism for collaboration and promotion of the Corporation between various categories of players in ICT infrastructure.

24.-(1) A Corporation shall have structure as determined by the Board and approved in accordance with provisions of the Public Service Act, No.2 of 2011.

Structure of the Corporation.

(2) The Board shall establish such department, division or units and appoint senior staff to be Head of department, division or units for the performance of its functions under this Act.

25. Subject to the Public Service Act, No. 2 of 2011, the Board shall recruit staff as may be required for the performance of the functions of the Corporation.

Staff of the Corporation.

PART FOUR MANAGEMENT AND ACCESS OF ICT INFRASTRUCTURE

26.-(1) The Corporation shall manage strategic ICT infrastructure in a manner that ensures the safety, cyber security and defense, economic and commercial viability.

Management of ICT Infrastructure.

(2) Any person, mobile network operator, internet service provider or cable operator shall not construct his own ICT infrastructure without the approval of the Corporation.

(3) Without prejudice to the provisions of sub section (2) of this section, the Corporation may incorporate with any investors or private sectors on management the ICT infrastructure.

27. The Board shall, establish the procedures for management of ICT Infrastructure on:

Procedures for Management of ICT Infrastructure.

- (a) operative principles;
- (b) sound business processes;
- (c) maintenance guidelines;
- (d) laying up fiber optic cable;
- (e) construct communication towers; and
- (f) any other procedures as the Board considers necessary for the better implementation of this Act.

Accessibility. **28.**-(1) The Corporation may, on the basis of the contractual obligations with mobile network operators and ICT service providers, afford access for the provision of their services through ICT infrastructures referred to under this Act.

(2) Notwithstanding the accessibility set out under subsection (1) of this section, the Corporation shall, upon the notification to the respective authority have access to audit and maintain ICT infrastructures to any locality including restricted areas.

Last Miles Connectivity. **29.** Any person, mobile network operator, internet service provider or cable operator shall make use of the Government ICT infrastructure through last mile connectivity.

Cyber Security. **30.**-(1) The Corporation shall require the ICT equipment's vendor and supplier to declare their equipment are free from bugging and espionage.

(2) ICT equipment's vendor and supplier who fails to comply with the provisions under sub section (1) of this section, commits an offence and shall, upon conviction, be liable to a fine of not less than Fifty Million Tanzania Shillings and not exceeding One Hundred Million Tanzania Shillings or imprisonment for a term of not less than ten years and not exceeding twenty years or both.

PART FIVE FINANCIAL PROVISIONS

- 31-(1)** The funds and resources of the Corporation shall consist of: Funds and resources of the Corporation.
- (a) money appropriated by the House of Representatives for the purpose of the Corporation;
 - (b) loans or grants received by the Corporation for its activities;
 - (c) fees and charges levied for the goods and services provided by the Corporation as may be determined from time to time; and
 - (d) any other money as may be legally acquired by the Corporation.

32.-(1) The Corporation shall, not less than two months before the end of each financial year, prepare and submit to the Minister an annual budget for approval showing estimates of its revenues and expenditures for the following financial year. Budget.

(2) Subject to the provisions of the Public Finance Management Act, No. 12 of 2016, the Corporation may, at any time before the end of the financial year, prepare and submit to the Minister for approval any supplementary budget of the current financial year.

33.-(1) The Corporation shall keep accounts and records of all transactions to ensure that all money received or paid by the Corporation is properly accounted for. Account and Audit.

(2) The annual financial statements of the Corporation shall be audited by the Controller and Auditor General.

34.-(1) The Corporation shall, within seven months after the end of each financial year, prepare or cause to be prepared and submit to the Minister an Annual Performance Report. Annual Performance Report.

(2) The annual report under subsection (1) of this section, shall provide detailed information regarding the activities of the Corporation during that financial year which it relates, and shall include:

- (a) copy of audited financial statements of the Corporation together with the auditor's report;
- (b) performance report of the Corporation of that financial year; and
- (c) such other substantial information of the Corporation as required by this Act.

(3) For public access to information, upon approval by the Minister, the annual report of the Corporation shall be published.

PART SIX MISCELLANEOUS PROVISIONS

Capacity and other service fees.

35.-(1) Capacity through ICT infrastructure and other services shall be provided on payment of fees as prescribed under the Regulations.

(2) The Corporation shall retain the monies accrued and submit dividend to the Paymaster General as prescribed by the Office of Treasury Registrar and Public Asset Management Act, No. 6 of 2021.

Offences and penalties.

36.-(1) Any person who unlawfully destroys, intercepts, cuts or does any act which amount to damage the ICT infrastructure, commits an offence and shall, upon conviction, be liable to a fine not less than Ten Million Tanzanian Shillings or two times of the value gained or loss caused or imprisonment for a term of not less than seven years and not more than ten years or both.

(2) A person who unlawfully:

- (a) constructs his own ICT infrastructure;
- (b) hinders, obstructs or disobeys any person while performing a function or doing anything required to be done under this Act;

(c) damages, endangers, disrupts or threaten the safety or security at ICT infrastructure or part thereof;

(d) enters in or on to, or gains access to ICT infrastructure, commits an offence and shall, upon conviction, be liable to a fine of not exceeding seven Million Tanzanian Shillings or imprisonment for a term of not less than two years and not more than five years or both.

(3) Any person who abuses the ICT infrastructure provided under this Act, for the purpose of damaging, misleading, provoking, defaming, deceiving or insulting, commits an offence and shall, upon conviction, be liable to a fine of not less than Five Million Tanzania Shillings and not exceeding Fifteen Million Tanzania Shillings or imprisonment for a term of not less than two years and not exceeding five years or both.

37. A person who contravenes any provisions of this Act for which no penalty is specifically provided, commits an offence and shall, upon conviction, be liable to a fine of not less than Two Million Tanzania Shillings or imprisonment for a term of not less than two years or both.

General
Penalty.

38.-(1) The Director General may compound an offence committed by a person under this Act or its Regulations by requiring him to pay the fine prescribed for such offence, provided that, the person:

Compounding
of Offences.

(a) admits that he has committed an offence and shall take due care not to repeat; and

(b) pays all his default payments under this Act.

(2) If the criminal proceedings have been instituted against a person, the power conferred under sub section (1) of this section shall not be exercised without a written consent of the Director of Public Prosecutions of Zanzibar.

(3) The imposition of the fine under sub section (1) of this section, shall not be regarded as conviction for the alleged offence and provided that the default payment is paid in full, no prosecution for the alleged offence shall be instituted or maintained.

Regulations. **39.** The Minister may make regulations for the better carrying out of the provisions of this Act.

Repeal and saving. **40.**-(1) The Zanzibar Information Communication Technology Infrastructure Agency Act, No.15 of 2020 is here by repealed.

(2) Notwithstanding the repeal under subsection (1) of this section, anything done or any action taken or purported to have been done or taken under any provisions of the repealed Act, shall continue to be valid and be deemed to be done under the provisions of this Act.

SCHEDULE
PROCEEDINGS OF THE BOARD

[Made under section 18]

1.-(1) The Board shall meet ordinarily once in every three months and may meet at any time when need arises for the discharge of its functions. Meeting of the Board.

(2) All meetings of the Board shall be presided by the Chairperson, in his absence, the Vice-Chairperson shall preside the meeting of the Board and where the Chairperson and Vice - Chairperson are absent, the members present shall elect one among them to preside the meeting.

2. The quorum of all meetings of the Board shall be more than half of its total number of members. Quorum.

3. Decisions of the Board shall be made by consensus, where there is no such consensus, the decisions shall be made by votes and where there are equal votes, the Chairperson shall have a casting vote. Decisions of the Board.

4. Subject to the provisions of this Act, the Board shall have power to regulate its own procedures in respect of the meetings and procedure of implementing its activities including committees of the Board. Procedures of the meetings.

5. The Board may co-opt any person who is not a member of the Board to attend in any deliberations of the meeting of the Board as an expert but the co-opted member shall have no right to vote. Co-opted member.

6.-(1) Any Board member shall, in any way directly or indirectly has either financial or any other interest, disclose to the Board the nature of his interest at the beginning of the meeting. Disclosure of interest of member.

(2) A member who makes a disclosure of his interest under sub section (1) of this section, shall not:

- (a) be present during any deliberation of the Board with respect to that matter; and

- (b) take part in any decision of the Board with respect to that matter.

Cessation for
membership.

7. The member shall cease to hold office upon the occurrence of one of the following:

- (a) resignation;
- (b) if he is absent without reasonable excuse for three consecutive meetings of the Board;
- (c) if he is convicted of a criminal offence involving fraud, dishonesty or moral turpitude;
- (d) if he is unable to perform his duties by reasons of physical or mental health;
- (e) to be terminated by the Minister for failing to meet the expectations of the Board;
- (f) if he ceases to be a representative of the institution which nominated that member; or
- (g) death.

OBJECTS AND REASONS

The objects and purpose of this Bill is to enact law which will provide for the establishment of the Zanzibar Information Communication Technology Corporation to facilitate the management of ICT and its services including ICT infrastructures, Fibre Optic, Data Centre and Communications Towers.

The Corporation shall be an autonomous entity working under the Ministry responsible for communication and infrastructure aimed to perform its duties to the provisions of this Bill and other laws.

Before this enactment, all functions stipulated under this bill were undertaken by the Zanzibar Information Communication Infrastructure Agency under the Ministry of Infrastructure Communications and Transport which at the moment deals with ICT infrastructure in general and the Government decided to establish the ICT Corporation which will deal with management of ICT toward enhance economic development and run commercially as stipulated in this Bill. The prepared bill led for an establishment of a Corporation known as the Zanzibar Information Communication Technology Corporation which is an independent institution headed by the Board of Directors and the Director General, who shall be a Chief Executive Officer appointed by the President and be responsible for day-to-day functions of the Corporation. Also, there are departments, divisions, sections and units which shall be headed by the person appointed subject to the provisions of the bill and laws relating to the Public Service. All head of departments, divisions, sections and units shall be responsible to the Director General in performing of their daily duties.

This Bill is divided into six parts.

Part One: is about preliminary provisions provide for short title and commencement date, interpretation of words.

Part Two: is for the establishment, objectives and functions of the Corporation, this part provides that, the Corporation shall be an independent institution and shall have power to acquire, hold, purchase or dispose any movable and immovable property and enter into contract subject to the laws.

Part Three: is about the administration and management of the Corporation, provides for the establishment of the Board of Directors constituted by the Chairperson appointed by the President, the Director General of the Corporation shall be ex-officio member to the Board and five members appointed by the Minister responsible for Communication. This part also provides for the functions of the Board, proceedings of meeting of the Board, the Vice-Chairperson of the Board, Secretary of the Board, allowances for the members, appointments of Director General, Functions and Powers of Director General, Departments, Divisions, and units and staffs of the Corporation.

Part Four: provides the provisions for management of ICT its services and infrastructure, procedures for management of ICT infrastructure and its accessibility.

Part Five: is about financial provisions, provides for the fund of the Corporation, resources, account and audit provisions.

Part Six: provides for miscellaneous provisions, which is about ICT services, capacity fees, offences and penalties, power of the Minister to make Regulations repeal and savings provisions.

ZANZIBAR
24th January, 2023.

(DR. KHALID SALUM MOHAMED)
**MINISTER OF INFRASTRUCTURE,
COMMUNICATION AND TRANSPORT**