

THE CONSTITUTION OF THE STATE OF ZANZIBAR, CONSTITUTION

Arrangement of Sections

CHAPTER I

Section

CITIZENSHIP

1. Zanzibar subjects by birth.
2. Subjects by descent.
3. Naturalisation of aliens.
4. Registration of minors.
5. Registration of wives of Zanzibar subjects.
6. Women who have ceased to be Zanzibar subjects on marriage.
7. Deprivation of status as Zanzibar subject.
8. Discretion of the Minister.
9. Certain citizens of U.K. and Colonies to be Zanzibar subjects.
10. Commonwealth citizens.
11. Criminal liability of Commonwealth citizens.
12. Powers of Parliament.
13. Interpretation.

CHAPTER II

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS  
OF THE INDIVIDUAL

14. Fundamental rights and freedoms of the individual.
15. Protection of right to life.
16. Protection of right to personal liberty.
17. Protection of freedom of movement.
18. Protection from slavery and forced labour.
19. Protection from inhuman treatment.
20. Protection from deprivation of property.
21. Protection against arbitrary search or entry.
22. Provisions to secure protection of law.
23. Protection of freedom of conscience.
24. Protection of freedom of assembly and association.
25. Protection of freedom of expression.
26. Protection from discrimination on the grounds of race, etc.
27. Derogation from fundamental rights and freedoms.
28. Protection of persons under emergency laws.
29. Enforcement of protective provisions.
30. Declaration of emergency.
31. Interpretation and savings.

CHAPTER III

THE SULTAN

32. Sultan to be Head of State.
33. Successor to the Throne.
34. Power of the Sultan to appoint a Regent.

*Section*

35. Regents other than those appointed by the Sultan.
36. Oaths to be taken by Regent.
37. Civil List of the Sultan.
38. Immunity of the Sultan from legal process.

## CHAPTER IV

## PARLIAMENT

## PART 1.—COMPOSITION OF PARLIAMENT

39. Establishment of Parliament.
40. National Assembly.
41. Membership of National Assembly.
42. Qualifications for election to National Assembly.
43. Disqualifications for election to National Assembly.
44. The Speaker.
45. Deputy Speaker.
46. Tenure of office of members.
47. Vacation of seat on sentence, etc.
48. Determination of questions as to membership of the Assembly.
49. Immunity of members of National Assembly.
50. Speaker, Deputy Speaker or member to preside in National Assembly.
51. Clerk of the National Assembly.

## PART 2.—ELECTORAL CONSTITUENCIES COMMISSION AND ELECTIONS COMMISSIONER

52. Electoral Constituencies Commission.
53. Constituencies and elections.
54. Elections Commissioner.
55. Elections Advisory Committee.

## PART 3.—LEGISLATION AND PROCEDURE IN NATIONAL ASSEMBLY

56. Certain laws to be void.
57. Power to make laws.
58. Alteration of certain laws.
59. Restrictions with regard to bills, etc., that charge the revenue.
60. Voting.
61. Vacancies and quorum.
62. Assent to bills.
63. Rules to be observed in the making of laws.
64. Standing Orders.
65. Official language.
66. Oath to be taken by members.

## PART 4.—SUMMONING, PROROGATION AND DISSOLUTION

67. Sessions, etc., of Parliament.
68. Prorogation or dissolution of Parliament.
69. General elections.

## CHAPTER V

## THE EXECUTIVE

*Section*

70. Exercise of executive authority of the State.
71. Exercise of the Sultan's functions.
72. Ministers of the Government.
73. Tenure of office of Ministers.
74. Cabinet.
75. Collective responsibility of Cabinet.
76. Assistant Ministers.
77. Performance of functions of Prime Minister in certain events.
78. Temporary Ministers.
79. Summoning of Cabinet.
80. Vacancy in Cabinet not to invalidate proceedings.
81. The Sultan to be informed of Cabinet affairs.
82. Assignment of responsibility.
83. Oath to be taken by Ministers.
84. Permanent secretaries.
85. Secretary to the Cabinet.
86. Attorney-General.
87. Director of Public Prosecutions.
88. Attorney-General may hold office of Director of Public Prosecutions.
89. Director of Audit.
90. Constitution of offices.
91. Prorogative of Mercy.

## CHAPTER VI

## THE JUDICATURE

## PART 1.—THE HIGH COURT

92. Establishment of High Court.
93. Appointment of judges of High Court.
94. Tenure of office of judges of High Court.
95. Oath of allegiance to be taken by judges.

## PART 2.—APPEALS

96. Appeals from High Court.

## PART 3.—THE JUDICIAL SERVICE COMMISSION

97. Judicial Service Commission.
98. Appointment, etc., of judicial officers.
99. Kathis.

## CHAPTER VII

## FINANCE

100. Consolidated Fund.
101. Estimates.
102. Authorisation of Consolidated Fund by appropriations.
103. Payment on the authority of warrant.
104. Contingencies Fund.
105. Remuneration of certain officers.

## CHAPTER VIII

*Section* THE PUBLIC SERVICE

106. Public Service Commission.
107. Appointment, etc., of public officers.
108. Appointment of Director of Audit.
109. Tenure of office of Director of Audit.
110. Appointment, etc., of principal representatives of the State abroad.
111. Tenure of office of Director of Public Prosecutions.
112. Appointment of permanent secretaries, etc.
113. Police Service Commission.
114. Appointment of Commissioner of Police.
115. Tenure of office of Commissioner of Police.
116. Appointment, etc., of senior police officers.
117. Appointment, etc., of subordinate police officers.
118. Proceedings of Commissions.
119. Preference to be given to Zanzibar subjects.
120. Special provisions with regard to pensions and like benefits.
121. Protection of pension rights.

## CHAPTER IX

## MISCELLANEOUS

122. Unqualified persons sitting or voting in National Assembly
123. Resignation.
124. Re-appointment and concurrent appointments.
125. Public Seal.

## CHAPTER X

## TRANSITIONAL PROVISIONS

126. Retirement of entitled officers.
127. Appeals in respect of certain decisions affecting pensions and like benefits.
128. Existing laws.
129. Existing offices.
130. Members of National Assembly.
131. Constituencies.
132. Legal proceedings.
133. Appeals pending to Privy Council.
134. Procedure of National Assembly.
135. Federation of Rhodesia and Nyasaland.

## CHAPTER XI

## INTERPRETATION, COMMENCEMENT AND TITLE

136. Interpretation.
137. Repeal.
138. Title and commencement.

First Schedule—Part I. Qualifications for Naturalisation.

Part II. Affirmation of Allegiances.

Second Schedule—Oath to be taken by the Regent.

Third Schedule—Forms.

Fourth Schedule—Entrenched Provisions of the Constitution.

## AN ACT TO DECLARE THE CONSTITUTION OF THE STATE OF ZANZIBAR

Enacted by the Constituent Assembly of the State of Zanzibar.

### CHAPTER I

#### CITIZENSHIP

1. Every person born (whether before or after the commencement of this Constitution) within the Dominions of the Sultan shall be a Zanzibar subject by birth: Zanzibar subjects by birth.

Provided that a person shall not become a Zanzibar subject by virtue of this section if at the time of his birth—

- (a) neither of his parents is a Zanzibar subject and his father possesses such immunity from suit and legal process as is accorded to the envoy of a foreign Sovereign power accredited to Zanzibar; or
- (b) his father is an enemy alien and the birth occurs in a place then under occupation by the enemy.

2. A person born (whether before or after the commencement of this Constitution) in a place outside the Dominions of the Sultan shall be a Zanzibar subject by descent if his father is a Zanzibar subject at the time of the birth: Subjects by descent.

Provided that if the father of such person is a Zanzibar subject by descent only, that person shall not be a Zanzibar subject by virtue of this section unless the birth is registered under the provisions of the Births and Deaths Registration Decree or in such other manner as may be provided by law within twelve months of its occurrence or of the date of commencement of this Constitution, whichever date shall be the later. Cap. 90.

3. The Minister may, if application is made to him in the prescribed manner by any alien of full age and capacity who satisfies him that he is qualified therefor under the provisions of Part I of the First Schedule to this Constitution, grant to him a certificate of naturalisation and the person to whom the certificate is granted shall, on making an affirmation of allegiance in the form specified in Part II of the said First Schedule, be a Zanzibar subject by naturalisation as from the date on which that certificate is granted. Naturalisation of aliens.

Registration of minors.

4.—(1) The Minister may cause the minor child of any Zanzibar subject to be registered as a Zanzibar subject upon application made in the prescribed manner by a parent or guardian of the child.

(2) The Minister may, in such special circumstances as he thinks fit, cause any person not of full age to be registered as a Zanzibar subject.

(3) A person registered under this section shall be a Zanzibar subject as from the date on which he is registered.

Registration of wives of Zanzibar subjects.

5.—(1) Subject to the provisions of subsection (2) of this section, a woman who is married to a Zanzibar subject shall be entitled on making application therefor to the Minister in the prescribed manner and on making an affirmation of allegiance in the form specified in Part II of the First Schedule, to be registered as a Zanzibar subject whether or not she is of full age and capacity.

(2) A woman who has renounced, or has been deprived of, her status as a Zanzibar subject in accordance with the provisions of any law for the time being in force in the State shall not be entitled to be registered as a Zanzibar subject under subsection (1) of this section but may be registered as such with the approval of the Minister.

(3) A woman registered under this section shall be a Zanzibar subject as from the date on which she is registered.

Women who have ceased to be Zanzibar subjects on marriage. Cap. 39.

6. A woman who, having before the date of commencement of the Nationality Decree married any person, ceased on that marriage or during the continuance thereof to be a Zanzibar subject shall be deemed to be, from the date of commencement of the said Decree, a Zanzibar subject.

Deprivation of status as Zanzibar subject.

7.—(1) A Zanzibar subject who is such by registration or naturalisation shall cease to be a Zanzibar subject if he is deprived of his status as such by an order of the Minister.

(2) Subject to the provisions of this section, the Minister may by order deprive any Zanzibar subject who is such by registration or naturalisation of his status as a Zanzibar subject if such registration or naturalisation as the case may be, was obtained by means of fraud, false representation or concealment of a material fact on the part of the subject and the subject has been convicted of an offence involving such fraud, false representation or concealment of a material fact as the case may be.

(3) Subject to the provisions of this section, the Minister may by order deprive any Zanzibar subject who is such by naturalisation of his status as a Zanzibar subject if that subject—

(a) has been convicted of an offence involving disloyalty or disaffection towards the State; or

(b) has within five years after becoming naturalised been sentenced in any country to imprisonment for a term of not less than twelve months.

(4) The Minister shall not deprive a person of his status as Zanzibar subject under this section unless he is satisfied that it is not conducive to the public good that that person should continue to be a Zanzibar subject.

(5) Before making an order under this section the Minister shall give the person against whom the order is proposed to be made notice in writing informing him of the ground on which it is proposed to be made and, if it is proposed that the order be made on any of the grounds specified in subsections (2) and (3) of this section, of his right to any inquiry under this section.

(6) If it is proposed that an order be made on any of the grounds specified in subsections (2) and (3) of this section and the person affected applies to the Minister in the prescribed manner for an inquiry, the Minister shall, and in any other case may refer the case to a committee of inquiry consisting of a chairman, being a person possessing judicial experience, appointed by the Sultan, acting in accordance with the advice of the Prime Minister, and such other members appointed by the Sultan, acting in accordance with the advice of the Prime Minister, as the Sultan shall deem fit.

8. The Minister shall not be required to assign any reason for the grant or refusal of any application under this Chapter and his decision shall not be questioned in any court. Discretion of the Minister.

9. Any person who on 10th December, 1963, is a citizen of the United Kingdom and Colonies, having become such a citizen by virtue of his having been naturalised or registered in Zanzibar under the British Nationality Act, 1948, shall, by virtue of that status, have the status of a Zanzibar subject. Certain citizens of U.K. and Colonies to be Zanzibar subjects. 11 & 12 Geo. 6.c.56.

10.—(1) Every person who under this Constitution or any Act of Parliament is a Zanzibar subject or under any enactment for the time being in force in any country to which this section applies is a citizen of that country shall, by virtue of that status, have the status of a Commonwealth citizen. Commonwealth citizens.

(2) Every person who is a British subject without citizenship under the British Nationality Act, 1948, or who continues to be a British subject under section 2 of that Act shall, by virtue of that status, have the status of a Commonwealth citizen.

(3) Save as may be otherwise provided by Parliament the countries to which this section applies are the United Kingdom and Colonies, Canada, Australia, New Zealand, India, Pakistan, Ceylon, Ghana, Malaysia, the Federal Republic of Nigeria, the Republic of Cyprus, the Federation of Rhodesia and Nyasaland, Sierra Leone, Tanganyika, Uganda, Jamaica, Trinidad and Tobago and Kenya.

Criminal liability of Commonwealth citizens.

11.—(1) A Commonwealth citizen who is not a Zanzibar subject or a citizen of the Republic of Ireland who is not a Zanzibar subject shall not be guilty of an offence against any law in force in the State by reason of anything done or omitted in any part of the Commonwealth other than the State or in the Republic of Ireland or in any foreign country unless—

- (a) the act or omission would be an offence if he were an alien; and
- (b) in the case of an act or omission in any part of the Commonwealth or in the Republic of Ireland, it would be an offence if the country in which the act was done or omission made were a foreign country.

(2) In this section “foreign country” means a country (other than the Republic of Ireland) that is not part of the Commonwealth.

Powers of Parliament.

12.—(1) Parliament may make provision for—

- (a) the acquisition of the status of Zanzibar subject by Commonwealth citizens who are not under any other provisions of this Constitution eligible or who are no longer eligible to be registered as Zanzibar subjects;
- (b) the renunciation by any person of his status as a Zanzibar subject;
- (c) for depriving any person of the status of Zanzibar subject where such person—
  - (i) having attained full age acquires the citizenship of some country other than the State by voluntary act (other than marriage); or
  - (ii) having attained full age, otherwise acquires the citizenship of some country other than the State and has not, by such date as may be prescribed, renounced his citizenship of that other country.

(2) Parliament may make provision for the renunciation by any person of his status as a Zanzibar subject.

Interpretation.

13.—(1) In this Chapter—

“alien” means a person who is not a Commonwealth citizen, a British protected person within the meaning ascribed to that term in the British Nationality Act, 1948, or a citizen of the Republic of Ireland;

“Commonwealth” means the State, any country to which section 10 of this Constitution applies and any dependency of any such country;

“Dominions of the Sultan” means the State and in so far as the expression relates to the place of birth of persons born before the commencement of this Constitution includes the Sultan’s possessions on the mainland of Africa and the adjacent islands (other than the islands comprising the State);

“full age” means the age of majority as defined in the Majority Decree; Cap. 53.

“minor child” means any child who is not of full age;

“prescribed” means prescribed by or under any Act of Parliament.

(2) For the purposes of this Chapter a person born aboard a registered ship or aircraft of the Government of any country shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(3) Any reference in this Constitution to the status or description of the father of a person at the time of that person’s birth shall, in relation to a person born after the death of his father, be construed as a reference to the status or description of the father at the time of the father’s death.

(4) References in this Chapter to “the Minister” are references to such Minister as may for the time being be designated by the Prime Minister.

(5) Any person having the status of Zanzibar subject may be known either as a Zanzibar subject or a Zanzibar citizen and accordingly in this Constitution and in any Act of Parliament the expression “Zanzibar subject” and the expression “Zanzibar citizen” shall have the same meaning.

## CHAPTER II

### PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

14. Whereas every person in the State is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, tribe, place of origin, political opinions, colour, creed, or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely—

Fundamental rights and freedoms of the individual.

(a) life, liberty, security of the person, the enjoyment of property and the protection of the law;

(b) freedom of conscience, of expression, and of assembly and association; and

(c) respect for his private and family life,

the subsequent provisions of this Chapter shall have effect for the purpose of affording protection to the aforesaid rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

15.—(1) No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted.

Protection of right to life.

(2) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use of force to such extent as is reasonably justifiable in the circumstances of the case—

- (a) for the defence of any person from violence or for the defence of property;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) for the purpose of suppressing a riot, insurrection or mutiny; or
- (d) in order to prevent the commission by that person of a criminal offence,

or if he dies as the result of a lawful act of war.

Protection  
of right to  
personal  
liberty.

**16.—(1)** No person shall be deprived of his personal liberty save as may be authorised by law in any of the following cases, that is to say—

- (a) in execution of the sentence or order of a court, whether established for the State or some other country, in respect of a criminal offence of which he has been convicted;
- (b) in execution of the order of the High Court or of the Court of Appeal punishing him for contempt of any such court or of another court or tribunal;
- (c) in execution of the order of a court made to secure the fulfilment of any obligation imposed on him by law;
- (d) for the purpose of bringing him before a court in execution of the order of a court;
- (e) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law of the State;
- (f) in the case of a person who has not attained the age of eighteen years, for the purpose of his education or welfare;
- (g) for the purpose of preventing the spread of an infectious or contagious disease;
- (h) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community;
- (i) for the purpose of preventing the unlawful entry of that person into the State, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from the State or for the purpose of restricting that person while he is being conveyed through the State in the course of his extradition or removal as a convicted prisoner from one country to another; or

(j) to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within the State or prohibiting him from being within such an area or to such extent as may be reasonably justifiable for the taking of proceedings against that person relating to the making of any such order, or to such extent as may be reasonably justifiable for restraining that person during any visit that he is permitted to make to any part of the State in which, in consequence of any such order, his presence would otherwise be unlawful.

(2) Any person who is arrested or detained shall be informed as soon as reasonably practicable, in a language that he understands, of the reasons for his arrest or detention.

(3) Any person who is arrested or detained—

(a) for the purpose of bringing him before a court in execution of the order of a court; or

(b) upon reasonable suspicion of his having committed, or being about to commit a criminal offence,

and who is not released, shall be brought before a court as soon as is reasonably practicable, and where he is not brought before a court within twenty-four hours of his arrest or from the commencement of his detention, the burden of proving that the person arrested or detained has been brought before a court as soon as is reasonably practicable shall rest upon any person alleging that the provisions of this subsection have been complied with.

(4) Where any person is brought before a court in execution of the order of a court in any proceedings or upon suspicion of his having committed or being about to commit an offence, he shall not be thereafter further held in custody in connection with those proceedings or that offence save upon the order of a court.

(5) If any person arrested or detained as mentioned in paragraph (b) of subsection (3) of this section is not tried within a reasonable time then, without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

(6) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that other person.

17.—(1) No person shall be deprived of his freedom of movement, and for the purposes of this section the said freedom means the right to move freely throughout the State, the right to reside in any part of the State, the right to enter the State, the right to leave the State and immunity from expulsion from the State.

Protection of  
freedom of  
movement.

(2) Any restriction on a person's freedom of movement which is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this section.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

- (a) for the imposition of restrictions on the movement or residence within the State of any person or on any person's right to leave the State that are reasonably required in the interests of defence, public safety or public order;
- (b) for the imposition of restrictions on the movement or residence within the State or on the right to leave the State of persons generally or any class of persons that are reasonably required in the interests of defence, public safety, public order, public morality or public health and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society;
- (c) for the imposition of restrictions by order of a court, on the movement or residence within the State of any person or on any person's right to leave the State either in consequence of his having been found guilty of a criminal offence under the law of the State or for the purpose of ensuring that he appears before a court at a later date for trial of such a criminal offence or for proceedings preliminary to trial or for proceedings relating to his extradition or lawful removal from the State;
- (d) for the imposition of restrictions on the freedom of movement of any person who is not a Zanzibar subject;
- (e) for the imposition of restrictions on the acquisition or use by any person of land or other property in the State;
- (f) for the imposition by the Government of restrictions upon the movement or residence within the State or on the right to leave the State of any person who holds or is acting in any office in the public service of the Government;
- (g) for the removal of a person from the State to be tried or punished in some other country for a criminal offence under the law of that other country or to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence under the law of the State of which he has been convicted; or
- (h) for the imposition of restrictions on the right of any person to leave the State that are reasonably required in order to secure the fulfilment of any obligations imposed on that person by law and except so far as that provision, or as the case may be, the thing done under the authority thereof, is shown not to be reasonably justifiable in a democratic society.

(4) If any person whose freedom of movement has been restricted by virtue of such a provision as is referred to in subsection (3) (a) of this section so requests at any time during the period of that restriction not earlier than three months after the order was made or three months

after he last made such request, as the case may be, his case shall be reviewed by an independent tribunal presided over by a person appointed by the Chief Justice from among persons qualified to be appointed as a judge of the High Court.

(5) On any review by a tribunal in pursuance of subsection (4) of this section of the case of any person whose freedom of movement has been restricted, the tribunal may make recommendations concerning the necessity or expediency of continuing that restriction to the authority by whom it was ordered and, unless it is otherwise provided by law, that authority shall be obliged to act in accordance with any such recommendations.

18.—(1) No person shall be held in slavery or servitude or required to perform forced labour.

Protection from slavery and forced labour.

(2) For the purposes of this section the expression “forced labour” does not include—

- (a) any labour required in consequence of the sentence or order of a court;
- (b) labour required of any person while he is lawfully detained which, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained;
- (c) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as such a member, any labour which that person is required by law to perform in place of such service;
- (d) any labour required during a period of public emergency or in the event of any other emergency or calamity which threatens the life or well-being of the community; or
- (e) any labour which forms part of normal communal or other civic obligations.

19.—(1) No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

Protection from inhuman treatment.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the infliction in the State of any description of punishment which was lawful in the State immediately before the commencement of this Constitution.

20.—(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied, that is to say—

Protection from deprivation of property.

- (a) the taking of possession or acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development or utilisation of any property in such manner as to promote the public benefit; and
- (b) the necessity therefor is such as to afford reasonable justification for the causing of any hardship that may result to any person having any interest in or right over the property; and
- (c) provision is made by a law applicable to that taking of possession or acquisition for the payment of adequate compensation.

(2) Every person having an interest or right in or over property which is compulsorily taken possession of or whose interest in or right over any property is compulsorily acquired shall have a right of direct access to the High Court for—

- (a) the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right, and the amount of any compensation to which he is entitled; and
- (b) the purpose of obtaining payment of that compensation:

Provided that if it is so provided by law in relation to any matter referred to in paragraph (a) of this subsection the right of access shall be by way of appeal (exercisable as of right at the instance of the person having the right or interest in the property) from a tribunal or authority other than the High Court, having jurisdiction under any law to determine that matter.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) or subsection (2) of this section—

- (a) to the extent that the law in question makes provision for the taking of possession or acquisition of any property—
  - (i) in satisfaction of any tax, duty, rate, cess or other impost;
  - (ii) by way of penalty for breach of the law, whether under civil process or after conviction of a criminal offence under the law in force in the State;
  - (iii) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge or contract;
  - (iv) in the execution of judgments or orders of a court in proceedings for the determination of civil rights or obligations;
  - (v) in circumstances where it is reasonably necessary so to do because the property is in a dangerous state or injurious to the health of human beings, animals or plants;
  - (vi) in consequence of any law with respect to the limitation of actions; or

- (vii) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, for the purposes of the carrying out thereon of work of soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement (being work relating to such development or improvement that the owner or occupier of the land has been required, and has without reasonable excuse refused, or failed, to carry out),

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society; or

- (b) to the extent that the law in question makes provision for the taking of possession or acquisition of—

- (i) enemy property;
- (ii) property of a deceased person, a person of unsound mind or a person who has not attained the age of eighteen years, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;
- (iii) property of a person adjudged bankrupt or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the bankrupt or body corporate and subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or
- (iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees, under the instrument creating the trust or by a court, or by order of a court, for the purpose of giving effect to the trust.

(4) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision for the compulsory taking possession of any property or the compulsory acquisition of any interest in or right over property where that property, interest or right is vested in a body corporate, established by law for public purposes, in which no moneys have been invested other than moneys provided by Parliament.

21.—(1) Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises.

Protection  
against  
arbitrary  
search or  
entry.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

- (a) that is reasonably required in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development and utilisation of mineral resources, or the development or utilisation of any other property in such a manner as to promote the public benefit;

- (b) that is reasonably required for the purpose of promoting the rights or freedoms of other persons;
  - (c) that authorises an officer or agent of the Government or of the East African Common Services Organisation, or of a local government authority or of a body corporate established by law for public purposes to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax, rate or due or in order to carry out work connected with any property that is lawfully on those premises and that belongs to the Government, Organisation, authority or body corporate, as the case may be; or
  - (d) that authorises, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the entry upon any premises by order of a court,
- and except so far as that provision or, as the case may be, anything done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Provisions  
to secure  
protection  
of law.

22.—(1) If any person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Every person who is charged with a criminal offence—

- (a) shall be presumed to be innocent until he is proved or has pleaded guilty;
- (b) shall be informed as soon as reasonably practicable, in a language that he understands and in detail, of the nature of the offence charged;
- (c) shall be given adequate time and facilities for the preparation of his defence;
- (d) shall be permitted to defend himself before the court in person or by a legal representative of his own choice;
- (e) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before the court and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and
- (f) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge;

and except with his own consent the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence.

(3) When a person is tried for any criminal offence, the accused person or any person authorised by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(4) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.

(5) No person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

(6) No person shall be tried for a criminal offence if he shows that he has been pardoned for that offence.

(7) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

(8) No person shall be convicted of a criminal offence unless that offence is defined, and the penalty therefor is prescribed, in a written law:

Provided that nothing in this subsection shall prevent a court from punishing any person for contempt notwithstanding that the act or omission constituting the contempt is not defined in a written law and the penalty therefor is not so prescribed.

(9) Any court or other adjudicating authority prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other adjudicating authority, the case shall be given a fair hearing within a reasonable time.

(10) Except with the agreement of all the parties thereto, all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other adjudicating authority, including the announcement of the decision of the court or other authority, shall be held in public.

(11) Nothing in the last foregoing subsection shall prevent the court or other adjudicating authority from excluding from the proceedings persons other than the parties thereto and their legal representatives to such extent as the court or other authority—

- (a) may by law be empowered to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory proceedings or in the interests of public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings; or
- (b) may by law be empowered or required to do in the interests of defence, public safety or public order.

(12) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of—

- (a) subsection (2)(a) of this section to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;
- (b) subsection (2)(e) of this section to the extent that the law in question imposes conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds; or
- (c) subsection (5) of this section to the extent that the law in question authorises a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law.

(13) In the case of any person who is held in lawful detention, the provisions of subsection (1), paragraphs (d) and (e) of subsection (2) and subsection (3) of this section shall not apply in relation to his trial for a criminal offence under the law regulating the discipline of persons held in such detention.

(14) Nothing contained in subsection (2)(d) of this section shall be construed as entitling a person to legal representation at public expense.

(15) In this section “criminal offence” means a criminal offence under the law of the State.

(16) Subsection (8) of this section shall come into effect at the expiration of a period of three years from the coming into operation of this Constitution.

Protection of  
freedom of  
conscience.

**23.—**(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) Except with his own consent (or, if he is a minor, the consent of his guardian), no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than his own.

(3) No religious community or denomination shall be prevented from providing religious instruction for persons of that community or denomination in the course of any education provided by that community or denomination.

(4) No person shall be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision which is reasonably required—

- (a) in the interests of defence, public safety, public order, public morality or public health; or
- (b) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion without the unsolicited intervention of members of any other religion,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

24.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say his right to assemble freely and associate with other persons and in particular to form or belong to trade unions or other associations for the protection of his interests.

Protection of  
freedom of  
assembly and  
association.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

- (a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health; or
- (b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons; or
- (c) that imposes restrictions upon public officers,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection of  
freedom of  
expression.

25.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

- (a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health; or
- (b) that is reasonably required for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts or regulating the technical administration or the technical operation of telephony, telegraphy, posts, wireless broadcasting or television; or
- (c) that imposes restrictions upon public officers,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection  
from dis-  
crimination  
on the  
grounds of  
race, etc.

26.—(1) Subject to the provisions of subsections (4), (5) and (7) of this section, no law shall make any provision which is discriminatory either of itself or in its effect.

(2) Subject to the provisions of subsections (6), (7) and (8) of this section, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(3) In this section, the expression “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, tribe, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(4) Subsection (1) of this section shall not apply to any law so far as that law makes provision—

- (a) with respect to any person who is not a Zanzibar subject; or
- (b) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law; or

(c) whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description is reasonably justifiable in a democratic society.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that it makes provision with respect to qualifications for or conditions of service as a public officer or as a member of a disciplined force or for the service of a local government authority or a body corporate established directly by any law.

(6) Subsection (2) of this section shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (4) or (5) of this section.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections 17, 21, 23, 24 and 25 of this Constitution, being such a restriction as is authorised by paragraph (a) of subsection (3) of section 17, subsection (2) of section 21, subsection (5) of section 23, subsection (2) of section 24 or subsection (2) of section 25 as the case may be.

(8) Nothing in subsection (2) of this section shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

**27.** Nothing contained in or done under the authority of any Act of Parliament to the extent that such law authorises the taking during any period when the State is at war or when a declaration of emergency under section 30 of this Constitution is in force of measures that are reasonably justifiable for dealing with the situation that exists in the State during that period shall be held to be inconsistent with or in contravention of section 16 or section 26 of this Constitution.

Derogation from fundamental rights and freedoms.

**28.—(1)** Where a person is detained by virtue of such a law as is referred to in section 27 of this Constitution the following provisions shall apply, that is to say—

Protection of persons under emergency laws.

(a) he shall as soon as reasonably practicable and in any case not more than five days after the commencement of his detention, be furnished with a statement in writing in a language that he understands specifying in detail the grounds upon which he is detained;

- (b) not more than fourteen days after the commencement of his detention and thereafter during his detention at intervals of not more than six months, his case shall be reviewed by an independent and impartial tribunal established by law and consisting of not less than three persons appointed by the Chief Justice from a panel of persons qualified to be appointed as judge of the High Court which panel shall be agreed from time to time between the President of the Court of Appeal and the Chief Justice;
- (c) he shall be afforded reasonable facilities to consult a legal representative of his own choice who shall be permitted to make representations to the tribunal appointed for the review of the case of the detained person; and
- (d) at the hearing of his case by the tribunal appointed for the review of his case he shall be permitted to appear in person or by a legal representative of his own choice.

(2) On any review by a tribunal in pursuance of this section of the case of a detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his detention to the authority by which it was ordered and that authority shall, unless the State is then at war or a declaration of emergency is then in force by virtue of a resolution of the National Assembly passed by a majority of not less than two-thirds of all the members of the Assembly, be obliged to act in accordance with such recommendations.

Enforce-  
ment of  
protective  
provisions.

**29.—(1)** If any person alleges that any of the provisions of sections 15 to 28 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the High Court for redress.

(2) The High Court shall have original jurisdiction—

- (a) to hear and determine any application made by any person in pursuance of subsection (1) of this section; and
- (b) to determine any question arising in the case of any person which is referred to it in pursuance of subsection (3) hereof;

and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of, any of the provisions of the said sections 15 to 28 (inclusive) to the protection of which the person concerned is entitled:

Provided that the High Court shall not exercise its powers under this subsection if it is satisfied that adequate means or redress for the contravention alleged are or have been available to the person concerned under any other law.

(3) If in any proceedings in any court other than the High Court or the Court of Appeal any question arises as to the contravention of any of the provisions of the said sections 15 to 28 (inclusive), the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless in his opinion the raising of the question is merely frivolous or vexatious.

(4) Any person aggrieved by any determination of the High Court under this section may appeal therefrom to the Court of Appeal.

(5) No appeal shall lie from any determination under this section that any application or the raising of any question is merely frivolous or vexatious.

30.—(1) The Sultan, may by order published in the *Gazette*, declare that a state of emergency exists for the purposes of this Chapter. Declara-  
tion of  
emergency.

(2) A declaration of a state of emergency under this section, if not sooner revoked, shall cease to have effect at the expiration of a period of fifteen days beginning with the date of publication of the declaration unless before the expiration of that period it is approved by a resolution passed by not less than one-half of all the members of the National Assembly.

(3) Subject to the provisions of subsection (4) of this section, a declaration of a state of emergency approved by resolution of the National Assembly under subsection (2) of this section shall continue in force until the expiration of a period of six months beginning with the date of its being so approved or until such earlier date as may be specified in the resolution:

Provided that the National Assembly may, by resolution of not less than one-half of all the members of the Assembly extend its approval of the declaration for periods of not more than six months at a time.

(4) The National Assembly may, by resolution passed by a majority of the members of the Assembly, at any time revoke a declaration of emergency approved by the Assembly under this section.

31.—(1) In this Chapter, unless the context otherwise requires— Interpreta-  
tion and  
savings.

“contravention”, in relation to any requirement, includes a failure to comply with that requirement and cognate expressions shall be construed accordingly;

“court” means any court of law having jurisdiction in the State other than a court established by a disciplinary law, and in sections 15 and 18 of this Constitution, includes a court established by a disciplinary law;

“disciplinary law” means a law regulating the discipline of any disciplined force;

“disciplined force” means—

- (a) a naval, military or air force; or
- (b) the Zanzibar Police Force; or
- (c) a prison service;

“member”, in relation to a disciplined force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline.

(2) In relation to any person who is a member of a disciplined force raised under any law in force in the State, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter other than sections 15, 18 and 19.

(3) In relation to any person who is a member of a disciplined force raised otherwise than as aforesaid and lawfully present in the State nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

### CHAPTER III

#### THE SULTAN

Sultan to be Head of State.

32.—(1) The Sultan shall be the Head of State and he shall bear the title of “His Majesty the Sultan”.

(2) The Sultan shall enjoy all the titles, dignities and pre-eminence that traditionally attach to the Ruler of the State of Zanzibar.

(3) The Sultan shall take precedence over all persons in the State.

Successor to the Throne.

33.—(1) The Sultan may by writing under his hand nominate any person to be the Successor to the Throne.

(2) If the Sultan dies or abdicates he shall be succeeded—

- (a) by the person for the time being nominated under subsection (1) of this section; or
- (b) if no person is so nominated, by his eldest son; or
- (c) if no person is so nominated and at the date of death or abdication of the Sultan the Sultan has no son, by his eldest male next-of-kin.

(3) Where any person who is nominated in pursuance of subsection (1) of this section dies, the nomination of that person shall be deemed to be revoked.

Power of the Sultan to appoint a Regent.

34.—(1) Whenever the Sultan has occasion to be absent from the State he may by Warrant under his own hand appoint a Regent to perform his functions under this Constitution in his name and on his behalf for the period of such absence, and so long as the appointment has effect the Sultan’s functions under this Constitution shall be performed accordingly by the Regent.

(2) A Regent appointed under subsection (1) of this section shall cease to hold office—

- (a) upon the return of the Sultan to the State;
- (b) if he resigns by writing under his hand addressed to the Sultan;
- (c) if his appointment is terminated by the Sultan; or
- (d) if the Sultan ceases to be able to perform his functions under this Constitution otherwise than by reason of his absence from the State.

(3) The Sultan may appoint a person to any office of Regent if at any time during the subsistence of a Regency under this section that office has become vacant.

(4) The power to appoint a Regent under this section shall not be exercisable during any period in which the Sultan is under the age of twenty-one years or unable otherwise than by reason of his absence from the State to perform his functions.

35.—(1) If at any time the Sultan is under the age of twenty-one years or is unable otherwise than by reason of his absence from the State to perform his functions under this Constitution, or has absented himself from the State without appointing a Regent, his three eldest male next-of-kin over the age of twenty-one years shall act as Regents and as such shall have full authority to perform the functions of the Sultan under this Constitution until he attains the age of twenty-one years, or is able to perform his duties, or returns to the State, or appoints a Regent under section 34 of this Constitution, as the case may be.

Regents other than those appointed by the Sultan.

(2) If any person entitled to act as a Regent under this section is absent from the State or is for any other reason unable to perform the functions of a Regent it shall be sufficient for the functions of the Regents under this section to be performed by two Regents.

36. A Regent shall not assume the functions of the office of Regent unless he has first taken an oath for the due performance of that office in the form set out in the Second Schedule to this Constitution.

Oaths to be taken by Regent.

37. Parliament shall by law provide a Civil List of the Sultan which Civil List shall be charged on the Consolidated Fund.

Civil List of the Sultan.

38.—(1) Justice shall be administered in the name of the Sultan.

Immunity of the Sultan from legal process.

(2) The Sultan shall be immune from all criminal process and from any civil process brought against him in his personal capacity.

## CHAPTER IV

## PARLIAMENT

## PART 1.—COMPOSITION OF PARLIAMENT

- Establishment of Parliament.**      **39.** There shall be a Parliament which shall consist of the Sultan and a National Assembly.
- National Assembly.**      **40.** The National Assembly shall consist of—  
 (a) a Speaker; and  
 (b) members elected in accordance with section 41 of this Constitution.
- Membership of National Assembly.**      **41.**—(1) Until Parliament otherwise provides, there shall be thirty-one members of the National Assembly.  
 (2) Subject to the provisions of this Constitution the members of the National Assembly shall be elected in such manner as may be prescribed by or under any law.
- Qualifications for election to National Assembly.**      **42.** Subject to the provisions of section 43 of this Constitution any person shall be qualified to be elected as a member of the National Assembly if, and shall not be so qualified unless, at the date of nomination for election, he—  
 (a) is a Zanzibar subject of the age of twenty-five years or upwards; and  
 (b) has resided in the State for a period of twelve months immediately preceding that date; and  
 (c) is able to read and write in English or Arabic or Kiswahili.
- Disqualifications for election to National Assembly.**      **43.** No person shall be qualified to be elected as a member of the National Assembly who, at the date of his nomination for election—  
 (a) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign Power or State; or  
 (b) is a person declared to be of unsound mind under any law in force in the State; or  
 (c) has been sentenced by a court in the State or in any part of the Commonwealth to death or to imprisonment (by whatever named called) for a term exceeding six months and has not either suffered the punishment to which he was sentenced or such other punishment as may by competent authority have been substituted therefor or received a free pardon; or  
 (d) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in the State or in any part of the Commonwealth; or

- (e) is a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government for or on account of the public service and has not disclosed to the Speaker the nature of that contract and his interest, or the interest of the firm or company, therein:

Provided that a person shall not be considered to be a party to a contract with the Government for the purposes of this paragraph by reason of his holding, or acting in, any public office;

- (f) subject to such exceptions and limitations as may be prescribed by Parliament, is the holder of a permanent appointment as a public officer.

44.—(1) The Speaker shall be a person who is not a member of the National Assembly and shall be appointed by the Sultan, acting in accordance with the advice of the Prime Minister, by Instrument under the Public Seal. The Speaker.

(2) The Speaker shall hold office for such period as may be specified in the Instrument by which he is appointed:

Provided that any appointment under this section may at any time be revoked by the Sultan acting in accordance with the advice of the Prime Minister.

45.—(1) The National Assembly shall—

(a) at its first sitting in every session; and

(b) at its first sitting after the occurrence of a vacancy in the office of Deputy Speaker, or as soon thereafter as may be convenient, elect as Deputy Speaker of the National Assembly one of its members who is not a Minister or an Assistant Minister.

(2) The Deputy Speaker shall, unless he earlier vacates his office under the provisions of this section, hold office until some other person is elected as Deputy Speaker under paragraph (a) of subsection (1) of this section.

(3) (a) A person shall vacate the office of Deputy Speaker—

(i) upon ceasing to be a member of the National Assembly; or

(ii) upon becoming a Minister or an Assistant Minister.

(b) The Deputy Speaker may by writing under his hand addressed to the Speaker or, in the absence of the Speaker or if there shall be no Speaker, to the Clerk of the National Assembly, resign his office; and upon receipt of such resignation by the Speaker or by the Clerk of the National Assembly, as the case may be, the office of Deputy Speaker shall become vacant.

(4) In any election of a Deputy Speaker under this section the votes of the members of the National Assembly shall be given by ballot in such manner as not to disclose how any particular member shall vote.

Deputy  
Speaker.

Tenure of  
office of  
members.

46.—(1) On the dissolution of Parliament under the provisions of section 68 of this Constitution the seats of all members shall become vacant.

(2) A member of the National Assembly shall vacate his seat in the Assembly—

- (a) if, by writing under his hand addressed to the Speaker, he resigns his seat in the Assembly;
- (b) if he is absent from two consecutive meetings of the Assembly without having obtained from the Speaker before the termination of either of those meetings, permission to be absent therefrom;
- (c) if he ceases to be a Zanzibar subject;
- (d) if any circumstances arise, that, if he were not a member of the Assembly, would cause him to be disqualified for election under paragraphs (b), (d), (e) or (f) of section 43 of this Constitution;
- (e) if he becomes a party to, or a partner in, a firm or a director or manager of a company which is a party to any contract with the Government for or on account of the public service unless he discloses to the Speaker within twenty-one days thereafter the nature of such contract;
- (f) in the circumstances mentioned in section 47 of this Constitution.

(3) If a member shall be appointed temporarily to any public office or to act in any such office he shall not sit as a member or take part in the proceedings of the National Assembly so long as he continues to hold or to act in that office.

(4) At any time when there is no Speaker or when the Speaker is absent from the State or, being present in the State, is for any reason unable to perform the functions of his office the Deputy Speaker may, instead of the Speaker, excuse the absence of a member for the purposes of paragraph (b) of subsection (2) of this section.

Vacation of  
seat on  
sentence, etc.

47.—(1) Subject to the provisions of this section, if a member of the National Assembly is sentenced by any court in any part of the Commonwealth to death or to imprisonment (by whatever name called) for a term exceeding six months, he shall forthwith cease to perform his functions as a member of the Assembly, and his seat in the Assembly shall become vacant at the expiration of a period of thirty days thereafter:

Provided that the Speaker may, at the request of the member from time to time extend that period for thirty days to enable the member to pursue any appeal in respect of his conviction or sentence, so, however, that the extensions of time exceeding in the aggregate three hundred and thirty days shall not be given without the approval of the Assembly signified by resolution.

(2) If at any time before the member vacates his seat he is granted a free pardon or his conviction is set aside or his sentence is reduced to a term of imprisonment of less than six months or a punishment other than imprisonment is substituted, his seat in the National Assembly shall not become vacant under the provisions of this section, and he may again perform his functions as a member of the Assembly.

**48.—**(1) The High Court shall have jurisdiction to hear and determine any question whether—

- (a) any person has been validly elected as a member of the National Assembly; or
- (b) the seat of any member of the Assembly has become vacant.

Determina-  
tion of  
questions  
as to  
membership  
of the  
Assembly.

(2) An application to the High Court for the determination of any question under paragraph (a) of subsection (1) of this section may be made by any person who is entitled to vote in the election to which the application relates or by the Attorney-General.

(3) An application to the High Court for the determination of any question under paragraph (b) of subsection (1) may be made by any member of the National Assembly or by the Attorney-General.

(4) The determination by the High Court of any question under subsection (1) shall not be subject to appeal.

(5) In the exercise of any functions vested in him by this section, the Attorney-General shall not be subject to direction or control by any other person or authority.

(6) Parliament may make provision with respect to—

- (a) the circumstances and manner in which and the conditions upon which applications may be made to the High Court for the determination of any question under this section; and
- (b) the powers, practice and procedure of the High Court in relation to such applications.

**49.—**(1) No civil or criminal proceedings may be instituted against any member of the National Assembly for words spoken before, or written in a report to the Assembly or to a Committee thereof or by reason of any matter or thing brought by him in the Assembly or a Committee by petition, bill, resolution, motion or otherwise.

Immunity of  
members of  
National  
Assembly.

(2) For the duration of any session members of the National Assembly shall enjoy freedom from arrest for any civil debt except a debt the contraction of which constitutes a criminal offence.

(3) No process issued by any court in the exercise of its civil jurisdiction shall be served or executed within the precincts of the National Assembly while the Assembly is sitting or through the Speaker, the Clerk or any officer of the Assembly.

Speaker,  
Deputy  
Speaker or  
member to  
preside in  
National  
Assembly.

50. The Speaker or in his absence the Deputy Speaker or in the absence of both the Speaker and Deputy Speaker a member of the National Assembly appointed by resolution of the Assembly, shall preside at the sittings of the Assembly.

Clerk of the  
National  
Assembly.

51.—(1) There shall be a Clerk of the National Assembly.

(2) Unless Parliament otherwise provides the office of the Clerk of the National Assembly and the offices of the members of his staff shall be public offices.

(3) Before entering on the duties of his office, the Clerk of the National Assembly shall make and subscribe before the Speaker or the member presiding an oath or declaration in the form set out as Form V in the Third Schedule.

#### PART 2.—ELECTORAL CONSTITUENCIES COMMISSION AND ELECTIONS COMMISSIONER

Electoral  
Constituencies  
Commission.

52.—(1) There shall be an Electoral Constituencies Commission which shall consist of—

(a) the Chief Justice, who shall be Chairman, and

(b) four appointed members of whom—

(i) two shall be appointed by the Sultan acting in accordance with the advice of the Prime Minister; and

(ii) two shall be appointed by the Sultan acting in accordance with the advice of the Leader of the Opposition.

(2) A person shall not be qualified to be an appointed member of the Electoral Constituencies Commission if he is a Minister, an Assistant Minister, a member of the National Assembly or the holder of any public office other than the office of Clerk of the National Assembly.

(3) Subject to the provisions of this section, the office of an appointed member of the Electoral Constituencies Commission shall become vacant—

(a) at the expiration of five years from the date of his appointment; or

(b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(4) An appointed member of the Electoral Constituencies Commission may be removed from office by the Sultan, acting in accordance with the advice of the Prime Minister, for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(5) A member of the Electoral Constituencies Commission may not be removed from office except in accordance with the provisions of this section.

(6) In the exercise of its functions the Electoral Constituencies Commission shall not be subject to the direction or control of any other person or authority.

53.—(1) The State shall be divided into constituencies for the purposes of elections to the National Assembly so that—

Constituencies and elections.

- (a) the number of such constituencies shall correspond with the number of seats in the National Assembly; and
- (b) the boundaries of such constituencies shall be such as the Electoral Constituencies Commission, acting with the approval of the National Assembly signified by resolution, may prescribe.

(2) Each constituency shall return one member to the National Assembly.

(3) The boundaries of each constituency shall be such that the number of inhabitants thereof is as nearly equal to the population quota as is reasonably practicable:

Provided that the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features and the difference between urban and rural areas in respect of density of population.

(4) The Electoral Constituencies Commission shall review the division of the State into constituencies at intervals of not less than ten years and not more than fifteen years and may, in accordance with the provisions of this section, alter the constituencies to such extent as it considers desirable in the light of the review:

Provided that the Commission shall carry out such a review and, in accordance with the provisions of this section, alter the constituencies whenever Parliament has made provision altering the number of seats in the National Assembly; and in addition the Commission may at any time carry out such a review and, in accordance with the provisions of this section, alter the constituencies to such extent as it considers desirable in consequence of the holding of a census of the population in pursuance of any law.

(5) Any provision by Parliament altering the number of seats in the National Assembly shall come into effect when the alteration of the constituencies that, in accordance with the provisions of subsection (4) of this section, is consequential thereon, comes into effect; and any alteration of the constituencies shall come into effect upon the next dissolution of Parliament after the alteration has been approved by the National Assembly.

(6) In this section “the population quota” means the number obtained by dividing the number of inhabitants of the State by the number of constituencies into which the State is to be divided under this section.

(7) For the purposes of this section the number of inhabitants of the State shall be ascertained by reference to the latest census of the population held in pursuance of any law.

Elections  
Commissioner.

54.—(1) There shall be an Elections Commissioner whose office shall be a public office.

(2) The Elections Commissioner shall—

(a) exercise general direction and supervision over the registration of electors and the administrative conduct of elections; and

(b) ensure that elections are conducted with fairness and impartiality and in compliance with the law.

(3) The Public Service Commission shall appoint as many deputies to the Elections Commissioner as it shall deem necessary which deputies shall have the same powers and duties and shall perform the same functions as the Elections Commissioner subject to such instructions as they may receive from the Elections Commissioner from time to time.

Elections  
Advisory  
Committee.

55.—(1) There shall be an Elections Advisory Committee which shall advise the Elections Commissioner on matters connected with his powers, duties and functions under this Constitution or under any other law.

(2) The Elections Advisory Committee shall consist of eight members, four of whom shall be appointed by the Sultan acting in accordance with the advice of the Prime Minister and four of whom shall be appointed by the Sultan acting in accordance with the advice of the Leader of Opposition.

(3) The Elections Commissioner shall consult the Elections Advisory Committee on all matters, other than those referred to in subsection (4) of this section, connected with the exercise, discharge or performance of his powers, duties or functions under this Constitution or any other law but he shall not be obliged to act in accordance with any advice or recommendations tendered or made to him on such matters by the Committee.

(4) The Elections Commissioner shall not be obliged to consult the Elections Advisory Committee—

(a) in cases in which the matters to be decided are, in his opinion, too unimportant to require reference to the Committee; or

(b) in cases in which, in his opinion, the urgency of the matter requires him to act before the Committee can be consulted.

(5) No business except that of adjournment shall be transacted by the Elections Advisory Committee unless there are at least five members present.

## PART 3.—LEGISLATION AND PROCEDURE IN NATIONAL ASSEMBLY

**56.** This Constitution is the supreme law of the State and, subject to the provisions of section 58 of this Constitution, if any other law is inconsistent with this Constitution this Constitution shall prevail and the other law shall, to the extent of the inconsistency, be void. Certain laws to be void.

**57.** Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of the State. Power to make laws.

**58.—(1)** Subject to the provisions of this section, Parliament may alter any of the provisions of this Constitution. Alteration of certain laws.

(2) In so far as it alters—

(a) this section; or

(b) any provision of this Constitution which is set out in the Fourth Schedule to this Constitution; or

(c) section 136 of this Constitution in its application to any of the provisions specified in the Fourth Schedule,

a bill for an Act of Parliament under this section—

(i) shall not be passed by the National Assembly in any session unless at the final vote thereon in that session it is supported by the votes of not less than two-thirds of all the members of the Assembly; and

(ii) shall not be submitted to the Sultan for assent unless the bill has been passed by the National Assembly in two successive sessions, there having been a dissolution of Parliament between the first and second of those sessions.

(3) For the purposes of subsection (1) of this section, a bill passed by the National Assembly in one session shall be deemed to be the same bill as a bill passed by the Assembly in the preceding session if it is identical with that bill, or contains only such alterations as are certified by the Speaker to be necessary owing to the time that has elapsed since the bill was passed in the preceding session.

(4) In this section—

(a) references to any of the provisions of this Constitution include references to any law that amends, modifies, re-enacts with or without amendments or modification or makes different provision in lieu of that provision; and

(b) references to the alteration of any of the provisions of this Constitution, include references to the amendment or modification or re-enactment, with or without amendment or modification, of that provision, the suspension or repeal of that provision and the making of different provision in lieu of that provision.

Restrictions with regard to bills, etc., that charge the revenue.

**59.** Except upon the recommendation of the Sultan, signified by a Minister, the National Assembly shall not—

- (a) proceed upon any bill (including an amendment to a bill) that in the opinion of the Speaker or other person presiding in the Assembly, makes provision for imposing or increasing any tax, for imposing or increasing any charge on the Consolidated Fund or other public funds of the State, or for altering any such charge otherwise than by reducing it, or for compounding any debt due to the State;
- (b) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the Speaker or other person presiding in the Assembly, is that provision should be made as aforesaid; or
- (c) receive any petition that, in the opinion of the Speaker or other person presiding in the Assembly, requests that provision should be made as aforesaid.

Voting.

**60.**—(1) Save as otherwise provided in this Constitution all questions proposed for decision in the National Assembly shall be determined by a majority of the votes of the members of the Assembly present and voting.

(2) (a) The Speaker shall have neither an original nor a casting vote.

(b) Any other person, including the Deputy Speaker, shall when presiding in the National Assembly, retain his original vote as a member but shall not have a casting vote.

(3) If, upon any question before the National Assembly, the votes are equally divided, the motion shall be lost.

(4) The Standing Orders of the National Assembly may make provision under which a member who votes upon a question in which he has a direct pecuniary interest shall be deemed not to have voted.

Vacancies and quorum.

**61.**—(1) The National Assembly shall not be disqualified for the transaction of business by reason of any vacancy among the members thereof including any vacancy not filled when the Assembly is first constituted or is reconstituted at any time; and any proceedings therein shall be valid notwithstanding that some person who was not entitled so to do sat or voted in the Assembly or otherwise took part in the proceedings.

(2) If objection is taken by any member of the National Assembly present that there are present in the Assembly (besides the person presiding) less than nine members of the Assembly and, after such interval as may be prescribed in the Standing Orders of the Assembly, the person presiding ascertains that the number of members present is still less than nine, he shall thereupon adjourn the Assembly.

62.—(1) The power of Parliament to make laws shall be exercised by bills passed by the National Assembly and assented to by the Sultan. Assent to bills.

(2) When a bill is presented to the Sultan for assent, He shall signify that He assents or that He withholds assent.

(3) A bill shall not become law unless it has been passed and assented to in accordance with this Constitution.

(4) When a law has been assented to by the Sultan it shall be published in the *Gazette* without delay and shall come into operation on the date of its publication or, if it is provided in such law or some other law, that it should come into operation on some other date, on that date.

63. All laws shall be styled Acts of Parliament and the enacting words shall be "Be it enacted by His Majesty the Sultan by and with the advice and consent of the National Assembly as follows:—” Rules to be observed in the making of laws.

64. Subject to the provisions of this Constitution and of the National Assembly (Powers and Privileges) Decree, the National Assembly may, from time to time, make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the despatch of business and for the passing, entitling and numbering of bills and the presentation thereof to the Sultan for His assent. Standing Orders. Cap. 88.

65.—(1) The official language of the National Assembly shall be English. Official language.

(2) Where the Speaker is satisfied that a member's knowledge of English is inadequate for the purpose he may permit that member to address the National Assembly in the Swahili language and every interpreter employed for the purpose of translating that member's remarks in English shall, before entering upon his duties for the first time, make and subscribe before the Speaker or the member presiding an oath, or declaration in the form set out as Form III in the Third Schedule to this Constitution.

(3) Any permission granted by the Speaker under subsection (2) may be revoked by the Speaker at any time.

66.—(1) Every member of the National Assembly shall, before taking part for the first time in any proceeding of the Assembly otherwise than for the purpose of enabling this section to be complied with, make and subscribe before the Speaker or the member presiding an oath or declaration in the form set out as Form IV in the Third Schedule. Oath to be taken by members.

(2) If any person who has previously been elected a member of the National Assembly and who made the oath or declaration prescribed by subsection (1) is again elected a member he shall, unless the last

mentioned election has occurred within twelve months of the last occasion upon which he sat as a member of the Assembly, before taking part in any proceedings of the Assembly, otherwise than for the purpose of enabling this section to be complied with, make and subscribe the oath or the said declaration.

#### PART 4.—SUMMONING, PROROGATION AND DISSOLUTION

Sessions,  
etc., of  
Parliament.

**67.**—(1) There shall be a session of Parliament once at least in every year so that a period of twelve months shall not intervene between the last sitting of the National Assembly in one session and the first sitting in the next session.

(2) Every session of Parliament shall commence at such place and at such time as the Sultan may from time to time by Proclamation published in the *Gazette* appoint.

(3) The meetings of the National Assembly, other than the first meeting in any session, shall be held at such places and shall commence at such times as the Speaker, acting in accordance with the advice of the Cabinet, may from time to time by notice published in the *Gazette* appoint.

(4) Notwithstanding anything hereinbefore contained, if, at any time when the National Assembly stands adjourned or Parliament is prorogued, the Speaker receives a written request that the Assembly be reconvened signed by a majority of the members of the Assembly, he shall within eight weeks after the receipt of such request cause the Assembly to be reconvened.

(5) Where the National Assembly has been reconvened in accordance with subsection (4) of this section Parliament shall not be prorogued or dissolved earlier than the expiration of seven days after its being so reconvened unless a majority of the members of the Assembly consent to its being prorogued, such consent being signified by a resolution of the Assembly.

Prorogation  
or dissolu-  
tion of  
Parliament.

**68.**—(1) Subject to the provisions of section 67 of this Constitution, the Sultan may at any time prorogue Parliament.

(2) Subject to the provisions of section 67 of this Constitution the Sultan, acting in accordance with the advice of the Prime Minister, may at any time dissolve Parliament.

(3) The Sultan shall dissolve Parliament if the office of Prime Minister is vacant and the Sultan considers that there is no prospect of his being able within a reasonable time to appoint to that office a person who can command the support of the majority of members of the National Assembly.

(4) Subject to the provisions of subsection (5) of this section, Parliament, unless sooner dissolved, shall continue for three years from the date of its first sitting after any dissolution and shall then stand dissolved.

(5) At any time when the State is at war, Parliament may from time to time extend the period of three years specified in subsection (4) of this section for not more than twelve months at a time:

Provided that the life of Parliament shall not be extended under this subsection for more than three years.

69. Whenever Parliament is dissolved a general election of members of the National Assembly shall be held within ninety days of the date of the dissolution and a session of Parliament shall be appointed to commence within thirty days of the date of such general election. General elections.

## CHAPTER V

### THE EXECUTIVE

70.—(1) The executive authority of the State is vested in the Sultan. Exercise of executive authority of the State.

(2) Subject to the provisions of this Constitution, the executive authority of the State may be exercised by the Sultan either directly or through officers subordinate to him.

(3) Nothing in this section shall prevent Parliament from conferring functions on persons or authorities other than the Sultan.

71.—(1) Subject to the provisions of subsection (2) of this section, in the exercise of his functions the Sultan shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet except in cases where he is required by this Constitution or any other law to act in accordance with the advice of any person or authority other than the Cabinet. Exercise of the Sultan's functions.

(2) The Sultan shall act in accordance with his own deliberate judgment in the performance of the following functions:—

(a) in the exercise of any power conferred upon him by Chapter III of this Constitution;

(b) in the exercise of the power to appoint the Prime Minister conferred upon him by section 72 of this Constitution;

(c) in the exercise of the power to remove the Prime Minister from office conferred upon him by section 73 of this Constitution;

(d) in the exercise of the power conferred upon him by section 77 of this Constitution (which relates to the performance of the functions of the Prime Minister during illness or absence) in the circumstances described in the proviso to subsection (2) of that section; and

(e) in the exercise of the power to appoint Kathis conferred by section 99 of this Constitution.

Ministers of  
the Govern-  
ment.

72.—(1) There shall be a Prime Minister who shall be appointed by the Sultan.

(2) There shall be, in addition to the office of Prime Minister, such other offices of Minister as may be established by Parliament or, subject to the provisions of any Act of Parliament by the Sultan acting in accordance with the advice of the Prime Minister.

(3) The Sultan shall appoint as Prime Minister the member of the National Assembly who appears to him best able to command the support of the majority of the members of the Assembly, and shall, acting in accordance with the advice of the Prime Minister, appoint the other Ministers from among the members of the Assembly:

Provided that if occasion arises for making an appointment to the office of the Prime Minister or any other Minister while Parliament stands dissolved, a person who was a member of the National Assembly immediately before the dissolution may be appointed to the office of Prime Minister or any other Minister.

(4) A Minister shall be appointed by Instrument under the Public Seal.

Tenure of  
office of  
Ministers.

73.—(1) The Sultan may remove the Prime Minister from office—

(a) if a vote of no confidence in the Government is passed by the National Assembly and the Prime Minister does not within three days after the passage of such motion resign or advise a dissolution; or

(b) if at any time between the holding of a general election and the first sitting of the Assembly thereafter the Sultan considers that, in consequence of changes in the membership of the Assembly resulting from the election, the Prime Minister will not be able to command the support of the majority of the members of the Assembly.

(2) The office of any Minister shall become vacant—

(a) if the holder of the office ceases to be a member of the National Assembly otherwise than by reason of a dissolution of Parliament; or

(b) if, at the first sitting of the Assembly after any dissolution of Parliament, the holder is not a member of the Assembly.

(3) The office of a Minister other than the Prime Minister shall become vacant—

(a) if the Sultan, acting in accordance with the advice of the Prime Minister, so directs;

- (b) if the Prime Minister resigns from office within three days after the passage by the National Assembly of a resolution of no confidence in the Government or is removed from office under subsection (2) of this section; or
- (c) upon the appointment of any person to the office of Prime Minister.

(4) If at any time the Prime Minister is required under the provisions of section 47 of this Constitution to cease to perform his functions as a member of the National Assembly, he shall cease during such time to perform any of his functions as Prime Minister.

(5) If at any time a Minister other than the Prime Minister is required under the provisions of section 47 of this Constitution to cease to perform his functions as a member of the National Assembly he shall cease during such time to perform any of his functions as a Minister.

**74.—**(1) There shall be a Cabinet of Ministers, consisting of the Prime Minister and the other Ministers.

(2) The function of the Cabinet shall be to advise the Sultan in the government of the State.

**75.—**(1) The Cabinet shall be collectively responsible to Parliament for any advice given to the Sultan by or under the general authority of the Cabinet and for all things done by or under the authority of any Minister in the execution of his office.

Collective responsibility of Cabinet.

(2) The provisions of this section shall not apply in relation to—

- (a) the appointment and removal from office of Ministers, Temporary Ministers and Assistant Ministers, the assignment of responsibility to any Minister under section 82 of this Constitution or the authorisation of another member of the Cabinet to perform the functions of the Prime Minister during absence or illness; or
- (b) the dissolution of Parliament.

**76.—**(1) The Sultan acting in accordance with the advice of the Prime Minister may, by Instrument under the Public Seal appoint, from among the members of the National Assembly, Assistant Ministers to assist Ministers in the discharge of their functions.

Assistant Ministers.

(2) Subsections (2), (3) and (5) of section 73 shall apply in relation to persons appointed under this section to be Assistant Ministers as they apply in relation to a Minister.

**77.—**(1) Whenever the Prime Minister is ill or absent from the State or by reason of subsection (4) of section 73 unable to perform the functions of his office the Sultan may by Instrument under the Public Seal authorise one of the other Ministers to perform the functions conferred upon the Prime Minister by this Constitution and any Minister so authorised may perform those functions until his authority is revoked by the Sultan.

Performance of functions of Prime Minister in certain events.

(2) The powers of the Sultan under this section shall be exercised by him in accordance with the advice of the Prime Minister:

Provided that if the Sultan considers that it is impracticable to obtain the advice of the Prime Minister owing to his absence or illness or, if the Prime Minister is unable to render advice by reason of the provisions of subsection (4) of section 73 he may exercise those powers without that advice.

Temporary Ministers.

**78.**—(1) Whenever a Minister, other than the Prime Minister, is, by reason of his illness or his absence from the State, unable to perform the functions of his office, the Sultan, acting in accordance with the advice of the Prime Minister, may appoint a person being a member of the National Assembly to be temporarily a Minister.

(2) Sections 73 and 83 of this Constitution shall apply in relation to a person appointed under this section to be temporarily a Minister as they apply in relation to a Minister.

(3) Subject to subsection (2) of this section, a person appointed under this section to be temporarily a Minister shall hold office until he is notified by the Prime Minister that the Minister on account of whose inability to perform his functions he was appointed is again able to perform his functions or the office of that Minister becomes vacant.

Summoning of Cabinet.

**79.**—(1) The Cabinet shall not be summoned except by the authority of the Prime Minister.

(2) The Prime Minister shall, as far as is practicable attend and preside at all meetings of the Cabinet and in his absence such other Minister as the Prime Minister may appoint, shall preside.

Vacancy in Cabinet not to invalidate proceedings.

**80.** The Cabinet of Ministers shall not be disqualified for the transaction of business by reason of any vacancy among the Ministers thereof including any vacancy not filled when the Cabinet is first constituted or is reconstituted at any time; and any proceedings therein shall be valid notwithstanding that some person who was not entitled so to do took part in the proceedings.

The Sultan to be informed of Cabinet affairs.

**81.**—(1) The Prime Minister shall—

(a) cause to be transmitted to the Sultan copies of all papers submitted for consideration by the Cabinet at the same time as those papers are transmitted to Ministers;

(b) cause the Sultan to be informed of the summoning of any meeting of the Cabinet and of the matters to be discussed at that meeting at the same time as Ministers are so informed; and

(c) cause the Sultan to be furnished, immediately after each meeting of the Cabinet, with a copy of the minutes of the meeting showing the matters discussed and the conclusions reached by the Cabinet at that meeting.

(2) The Prime Minister shall keep the Sultan fully informed concerning the general conduct of the Government of the State and shall furnish the Sultan with such information as he may request in respect of any particular matter relating to the Government of the State.

**82.**—(1) The Sultan, acting in accordance with the advice of the Prime Minister, may, by directions in writing, assign to the Prime Minister or any other Minister responsibility for the conduct of any business of the Government of the State including responsibility for the administration of any department of Government. Assignment of responsibility.

(2) Nothing in this section shall confer on any Minister authority—

- (a) to exercise any power or to discharge any duty that is conferred by any law on any person or authority other than that Minister; or
- (b) to exercise any power or to discharge any duty that is conferred by any law on that Minister otherwise than in accordance with that or any other law.

**83.**—(1) Every Minister shall, before taking part for the first time in any proceeding of the Cabinet, make and subscribe before the Sultan an oath or declaration in the form set out as Form I in the Third Schedule. Oath to be taken by Ministers.

(2) If any person who has previously been appointed as a Minister and who has made the oath or declaration prescribed by subsection (1) of this section is again appointed as a Minister, he shall, unless the last-mentioned appointment is made within twelve months of the last occasion upon which he sat as a Minister, before taking part in any proceeding of the Cabinet and subscribe the said oath or the said declaration.

**84.** Where any Minister has been charged with responsibility for any department of Government, he shall exercise general direction and control over that department and, subject to such direction and control that department of Government shall be under the supervision of a permanent secretary whose office shall be a public office: Permanent secretaries.

Provided that—

- (a) two or more Government departments may be placed under the supervision of one permanent secretary and one Government department may be placed under the supervision of two or more permanent secretaries; and
- (b) during any period when the Attorney-General is a public officer he shall exercise general direction and control over his own department.

Secretary to  
the Cabinet.

**85.—**(1) There shall be a Secretary to the Cabinet whose office shall be a public office.

(2) The Secretary to the Cabinet shall, before entering on the duties of his office, make and subscribe before the member presiding an oath or declaration in the form set out as Form II in the Third Schedule.

(3) The Secretary to the Cabinet shall be responsible, in accordance with such instructions as may be given to him by the Prime Minister, for arranging the business for, and keeping the minutes of, the Cabinet, for conveying the decisions of the Cabinet to the appropriate person or authority and for transmitting to the Sultan all the papers and information to which under the provisions of section 81 of this Constitution the Sultan is entitled and shall have such other functions as the Prime Minister may from time to time direct.

Attorney-  
General.

**86.—**(1) There shall be an Attorney-General who shall be the principal legal adviser to the Government of the State.

(2) The office of Attorney-General may be either a public office or that of a Minister under subsection (2) of section 72 of this Constitution.

(3) So long as the office of Attorney-General is a public office power to appoint persons to hold or act in that office and to remove persons so appointed from that office shall vest in the Sultan acting in accordance with the advice of the Prime Minister.

(4) Before tendering any advice for the purposes of this section the Prime Minister shall consult the Public Service Commission.

Director of  
Public  
Prosecutions.

**87.—**(1) There shall be a Director of Public Prosecutions, whose office shall be a public office.

(2) A person shall not be qualified to hold or act in the office of Director of Public Prosecutions unless he is qualified for appointment as a judge of the High Court.

(3) The Director of Public Prosecutions shall have power in any case in which he considers it desirable so to do—

- (a) to institute and undertake criminal proceedings against any person before any court in respect of any offence against the law of the State;
- (b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority; and
- (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(4) The powers of the Director of Public Prosecutions under subsection (3) of this section may be exercised by him in person or through other persons acting under and in accordance with his general or special instructions.

(5) The powers conferred upon the Director of Public Prosecutions by paragraphs (b) and (c) of subsection (3) of this section shall be vested in him to the exclusion of any other person or authority:

Provided that, where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court.

(6) In the exercise of the powers conferred upon him by this section the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority.

(7) For the purposes of this section, any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved for the purposes of any such proceedings, to any other court shall be deemed to be part of those proceedings.

(8) The provisions of this section shall be without prejudice to any provision of the Criminal Procedure Decree conferring powers on the Director of Public Prosecutions in addition to the powers conferred by this section. Cap. 14.

**88.** During any period when the Attorney-General is a public officer he may hold the office of Director of Public Prosecutions as well as that of Attorney-General. Attorney-General may hold office of Director of Public Prosecutions.

**89.—(1)** There shall be a Director of Audit whose office shall be a public office. Director of Audit.

(2) The public accounts of the State and of all officers, courts and authorities of the State shall be audited and reported on by the Director of Audit and for that purpose the Director of Audit or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Director of Audit shall submit his reports to the Minister responsible for finance who shall cause them to be laid before the National Assembly.

(4) In the exercise of his functions under this section or under the Audit Decree the Director of Audit shall not be subject to the direction or control of any other person or authority. Cap. 38.

(5) The provisions of this section shall be without prejudice to any provision of the Audit Decree conferring powers on the Director of Audit in addition to the powers conferred by this section or, subject to subsection (4) of this section, imposing duties on the Director of Audit in addition to the duties imposed by this section. Cap. 38.

(6) No disciplinary proceedings shall be instituted by the Public Service Commission or any other authority against any member of the Staff of the Director of Audit except with the consent of the Director.

Constitution of offices.

90. Subject to the provisions of this Constitution and of any other law, the Sultan may constitute offices for the State, make appointments to any such office and terminate any such appointment.

Prorogative of Mercy.

91. The Sultan may—

- (a) grant to any person concerned in or convicted of any offence against the law of the State a pardon either free or subject to lawful conditions;
- (b) grant to any person a respite either indefinite or for a specified period of the execution of any punishment imposed on that person for such an offence;
- (c) substitute a less severe form of punishment for any punishment imposed on any person for such an offence; or
- (d) remit the whole or any part of any punishment imposed on any person for such an offence or of any penalty or forfeiture otherwise due to the State on account of such an offence.

## CHAPTER VI

### THE JUDICATURE

#### PART 1.—THE HIGH COURT

Establishment of High Court.

92.—(1) There shall be a High Court which shall have such jurisdiction and powers as may be conferred on it by this Constitution or any other law.

(2) The judges of the High Court shall be the Chief Justice and such number of other judges (hereinafter referred to as the “puisne judges”) as may be prescribed by Parliament:

Provided that the office of a puisne judge shall not be abolished while there is a substantive holder thereof.

(3) The High Court shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

(4) The High Court shall sit in such places as the Chief Justice may appoint.

Appointment of judges of High Court.

93.—(1) The Chief Justice shall be appointed by the Sultan acting in accordance with the advice of the Prime Minister who, before tendering such advice, shall have consulted the President of the Court of Appeal.

(2) The puisne judges shall be appointed by the Sultan acting in accordance with the advice of the Judicial Service Commission.

(3) (a) A person shall not be qualified for appointment as a judge of the High Court unless he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court, or he is qualified to practice as an advocate in such a court and he has been qualified for not less than five years to practise as an advocate or solicitor in such court.

(b) In computing, for the purposes of this paragraph, the period during which any person has been qualified to practise as an advocate or solicitor, any period during which he has held judicial office and becoming so qualified shall be included.

(c) The reference in this section to a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth and to a court having jurisdiction in appeals from any such court shall be construed as if it included a reference to a court having such jurisdiction in the Republic of Ireland.

(4) (a) If the office of Chief Justice is vacant, or if the Chief Justice is for any reason unable to perform the functions of his office, then until a person has been appointed to and has assumed the functions of that office or until the Chief Justice has resumed those functions, as the case may be, those functions shall be performed by such one of the puisne judges or such other person qualified for appointment as a judge of the High Court as the Sultan, acting in accordance with the advice of the Prime Minister, may appoint to act as Chief Justice.

(b) If a puisne judge vacates his office or is appointed to act as Chief Justice, or is for any reason unable to perform the functions of his office, or if the Judicial Service Commission is satisfied that the state of business in the High Court requires that the number of puisne judges should be temporarily increased the Judicial Service Commission may appoint a person qualified for appointment as a judge of the High Court to act as a puisne judge.

(c) Without prejudice to the provisions of the following subsection a person appointed under this section to act as Chief Justice or as a puisne judge shall, unless he earlier resigns his acting office, or is removed therefrom under section 94 of this Constitution, continue so to act until the end of the period for which he was appointed or, if he was not appointed for a specified period until his appointment is revoked, in the case of a person appointed to act as Chief Justice by the Sultan acting in accordance with the advice of the Prime Minister, or in the case of a person appointed to act as a puisne judge, by the Judicial Service Commission, as the case may be.

(5) Any judge may, notwithstanding that he has attained the age at which he is required by or under the provisions of this Constitution or any other law to vacate his office, and any person appointed to act as a judge may, notwithstanding that the period of his appointment has

expired or his appointment has been revoked, sit as a judge for the purpose of giving judgment or otherwise in relation to any proceeding commenced before him while his appointment was subsisting.

Tenure of  
office of  
judges of  
High Court.

**94.**—(1) Subject to the following provisions of this section a judge of the High Court shall hold office until he attains the age of sixty-two years:

Provided that the Sultan, acting in accordance with the advice of the Prime Minister, may permit such a person to continue in office until he has attained the age of sixty-five years.

(2) A judge of the High Court may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be removed except in accordance with the provisions of subsections (3) and (4) of this section.

(3) (a) If the Prime Minister considers that the question of removing a judge of the High Court under this section should be investigated he shall advise the Judicial Service Commission accordingly and the Commission shall appoint a tribunal which shall consist of a chairman and not less than two other members who hold or have held office as judges of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court.

(b) A tribunal appointed under paragraph (a) of this subsection shall inquire into the matter and report on the facts thereof to the Prime Minister and advise the Prime Minister whether the Judge ought to be removed from office under this section for inability as aforesaid or for misbehaviour.

(4) Where a tribunal appointed under paragraph (a) of subsection (3) of this section advises that a Judge ought to be removed from office, the Sultan shall forthwith remove him from office.

(5) If the question of removing a judge from office has been referred to a tribunal under subsection (3) of this section, then, if the judge is the Chief Justice, the Sultan, acting in accordance with the advice of the Prime Minister may, or if the judge is a puisne judge the Judicial Service Commission may, suspend the judge from performing the functions of his office and any such suspension may at any time be revoked by the Sultan acting in accordance with the advice of the Prime Minister or by the Judicial Service Commission as the case may be and shall in any event cease to have effect if the tribunal advises that the judge ought not to be removed from office.

Oath of  
allegiance  
to be taken  
by judges.

**95.** A judge of the High Court shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by Parliament.

## PART 2.—APPEALS TO THE COURT OF APPEAL

96.—(1) An appeal shall lie from the decisions of the High Court to the Court of Appeal in such cases and subject to such conditions as may be prescribed by Parliament. Appeals from High Court.

(2) The provisions of this section shall be without prejudice to the provisions of section 48 of this Constitution.

## PART 3.—THE JUDICIAL SERVICE COMMISSION

97.—(1) There shall be a Judicial Service Commission which shall consist of— Judicial Service Commission.

- (a) the Chief Justice, who shall be Chairman;
- (b) the Chairman of the Public Service Commission;
- (c) the puisne judge and, if there is more than one, such puisne judge as may for the time being be designated in that behalf by the Sultan acting in accordance with the advice of the Prime Minister;
- (d) one other member who shall be appointed by the Sultan acting in accordance with the advice of the Prime Minister (hereinafter in this Part referred to as “the appointed member”).

(2) The following provisions shall apply in relation to the appointed member of the Judicial Service Commission—

- (a) a person shall not be qualified for appointment as such unless he has the qualifications prescribed in section 93 of this Constitution;
- (b) subject to the provisions of this subsection, a person appointed as such shall vacate his office at the expiration of four years from the date of his appointment; and
- (c) a person appointed as such may be removed from office by the Sultan in accordance with the advice of the Prime Minister, but he may be removed only for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(3) If the office of the appointed member of the Judicial Service Commission is vacant or that member is for any reason unable to perform the functions of his office, the Sultan in accordance with the advice of the Prime Minister, may appoint a person qualified for appointment as such a member to act as the appointed member and any person so appointed, shall, subject to the provisions of subsection (2) of this section, continue to act until the office of the appointed member is filled or until his appointment is revoked by the Sultan acting in accordance with the advice of the Prime Minister.

(4) Before tendering advice to the Sultan for the purposes of any of the provisions of this section the Prime Minister shall consult the Chief Justice.

Appointment, etc., of judicial officers.

98.—(1) Power to appoint persons to hold or act in offices to which this section applies (including power to confirm appointments), to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office shall vest in the Judicial Service Commission.

(2) The offices to which this section applies are—

- (a) the office of Registrar or Deputy Registrar of the High Court;
- (b) the office of Resident Magistrate or Magistrate.

(3) References in this section to the office of Magistrate do not include references to any administrative office the holders of which are, under the provisions of any law, entitled by virtue of that office to exercise the powers of a Magistrate.

Kathis.

99.—(1) Subject to the provisions of subsections (2), (3) and (4) of this section, power to appoint persons to hold or act in the office of Kathi, to exercise disciplinary control over persons holding or acting in such office and to remove such persons from office shall vest in the Sultan.

(2) Before appointing any person to hold or act in the office of Kathi, the Sultan shall consult the Judicial Service Commission.

(3) In all matters affecting the promotion, discipline, compulsory retirement and removal from office of persons holding the office of Kathi, the Sultan shall act in accordance with the advice of the Judicial Service Commission.

(4) The Judicial Service Commission shall have power—

- (a) after consultation with the senior Kathi, to advise the Sultan on all matters affecting the appointment, promotion and discipline of Kathis;
- (b) after consultation with the senior Kathi to advise the Sultan on the compulsory retirement of Kathis under the provisions of the Pensions Decree and also on the retention of Kathis after they have reached the age of retirement;
- (c) to confirm, defer confirmation or refuse confirmation in appointment of Kathis;
- (d) to defer or withhold increments of Kathis and to regulate the crossing of efficiency bars by Kathis.

Cap. 45.

(5) In this section "Kathi" means a Kathi exercising jurisdiction in accordance with the provisions of the Courts Decree, 1963.

Decree No.  
22 of 1963.

## CHAPTER VII

## FINANCE

**100.** There shall be in and for the State a Consolidated Fund into which, subject to the provisions of any law for the time being in force in the State, shall be paid all revenues of the State. Consolidated Fund.

**101.—(1)** The Minister for the time being responsible for finance shall, before the end of each financial year, cause to be prepared annual estimates of revenue and expenditure for public services during the succeeding financial year, which shall be laid before the National Assembly. Estimates.

(2) The estimates of expenditure shall show separately the sums required to meet statutory expenditure (as defined in subsection (4) of section 102) and the sums required to meet other expenditure proposed to be paid out of the Consolidated Fund.

**102.—(1)** The Minister for the time being responsible for finance shall, in respect of each financial year, at the earliest convenient moment, introduce into the National Assembly an Appropriation Bill containing, under appropriate heads for the several services required, the estimated aggregate sums which are proposed to be expended (otherwise than by way of statutory expenditure) during that financial year. Authorisation of Consolidated Fund by appropriations.

(2) Whenever—

- (a) any monies are expended or are likely to be expended in any financial year for a purpose in excess of the sum provided for that purpose by the Appropriation Act relating to that year; or
- (b) any monies are expended or are likely to be expended (otherwise than by way of statutory expenditure) in any financial year for any purpose for which no amount has been appropriated by the Appropriation Act relating to that year,

statements of excess or, as the case may be, supplementary estimates shall be prepared by the Minister for the time being responsible for finance and shall be laid before and voted on by the National Assembly. In respect of all supplementary expenditure so voted the Minister may, at any time before the end of the financial year, introduce into the National Assembly a supplementary Appropriation Bill containing, under appropriate heads, the estimated aggregate sums so voted and shall, as soon as possible after the end of each financial year, introduce into the National Assembly a final Appropriation Bill containing any such sums which have not yet been included in any Appropriation Bill.

(3) That part of any estimate of expenditure laid before the National Assembly which shows statutory expenditure shall not be voted on by the National Assembly, and such expenditure shall, without further authority of the National Assembly, be paid out of the Consolidated Fund.

(4) For the purposes of this section and the preceding section “statutory expenditure” means—

- (a) expenditure charged on the Consolidated Fund or on the general revenues and assets of the State by virtue of the provisions of any other law for the time being in force in the State, and
- (b) the interest on the public debt, sinking fund payments, redemption moneys and the costs, charges and expenses incidental to the management of the public debt.

Payment on the authority of warrant.

**103.**—(1) No sum shall be paid out of the Consolidated Fund except upon the authority of a warrant authorised by the Minister for the time being responsible for finance.

(2) Subject to the provisions of subsections (3) and (4) of this section, no such warrant shall be issued except in respect of sums granted for the specified public services by the Appropriation Act for the financial year during which the withdrawal is to take place or of statements of excess or, as the case may be, supplementary estimates passed by the National Assembly in accordance with subsection (2) of section 102 or for services otherwise lawfully charged on the Consolidated Fund.

(3) The National Assembly may, by resolution approving estimates containing a vote on account, authorise expenditure for part of any financial year before the passing of the Appropriation Act for that year, but the aggregate sums so voted, shall be included, under the appropriate heads, in the Appropriation Bill for that year.

(4) Where at any time Parliament has been dissolved before any provision or any sufficient provision is made by Act of Parliament for the carrying on of the Government, the Minister for the time being responsible for finance may issue a warrant for the payment out of the Consolidated Fund of such sums as he may consider necessary for the purpose of meeting expenditure necessary to carry on the Government until the expiry of a period of three months commencing with the date on which Parliament first meets after that dissolution but a statement of the sums so authorised shall, as soon as practicable, be laid before and voted on by the National Assembly and the aggregate sums so voted shall be included, under the appropriate heads, in the next Appropriation Bill.

Contingencies Fund.

**104.**—(1) Parliament may make provision for the establishment of a Contingencies Fund and for authorising the Minister for the time being responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.

(2) Where any advance is made from the Contingencies Fund, a supplementary estimate shall be presented as soon as possible for the purpose of replacing the amount so advanced.

Remuneration of certain officers.

**105.**—(1) There shall be paid to the holders of the offices to which this section applies such salary and such allowances as may be prescribed by Parliament.

(2) The salaries and any allowances payable to the holders of the offices to which this section applies shall be a charge on the Consolidated Fund.

(3) The salary payable to the holder of any office to which this section applies shall not be altered to his disadvantage after his appointment.

(4) Where a person's salary or terms of office depend upon his option, the salary or terms for which he opts shall, for the purposes of subsection (3) of this section, be deemed to be more advantageous to him than any others for which he might have opted.

(5) This section applies to the offices of Chief Justice, puisne judge, a member of the Electoral Constituencies Commission, a member of the Judicial Service Commission appointed under paragraph (d) of subsection (1) of section 97 of this Constitution, a member of the Public Service Commission, a member of the Police Service Commission, the Director of Public Prosecutions, the Director of Audit and the Speaker of the National Assembly.

## CHAPTER VIII

### THE PUBLIC SERVICE

106.—(1) There shall be a Public Service Commission which shall consist of a Chairman and not less than two nor more than four other members. Public  
Service  
Commission.

(2) The members of the Public Service Commission shall be appointed by the Sultan, acting in accordance with the advice of the Prime Minister.

(3) A person shall not be qualified for appointment as a member of the Public Service Commission if he is—

- (a) a member of the National Assembly; or
- (b) a public officer; or
- (c) an officer of any political party or political association.

(4) Subject to the provisions of this section, the office of a member of the Public Service Commission shall become vacant—

- (a) at the expiration of four years from the date of his appointment; or
- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Public Service Commission may be removed from office by the Sultan, acting in accordance with the advice of the Prime Minister, but he may be removed only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(6) If the office of the Chairman of the Public Service Commission is vacant or if the person holding that office is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, those functions shall be performed by such one of the other members of the Commission as may be designated in that behalf by the Sultan, acting in accordance with the advice of the Prime Minister.

(7) If at any time there is a vacancy among the members of the Public Service Commission other than the Chairman or if any such member is appointed to act as Chairman or is for any reason unable to perform the functions of his office, the Sultan, acting in accordance with the advice of the Prime Minister, may appoint a person who is qualified for appointment as a member of the Commission to act as a member, and any person so appointed shall, subject to the provisions of subsection (4) of this section continue to act until the office in which he is acting is filled or, as the case may be, until the holder thereof resumes his functions or until his appointment to act is revoked by the Sultan, acting in accordance with the advice of the Prime Minister.

Appoint-  
ment, etc.,  
of public  
officers.

**107.**—(1) Subject to the provisions of this Constitution, power to appoint persons to hold or act in any public offices (including power to confirm appointments), to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office shall vest in the Public Service Commission.

(2) The provisions of this section shall not apply in relation to any of the following offices—

- (a) the office of any judge of the High Court;
- (b) the office of Director of Audit;
- (c) any office to which section 98 of this Constitution (which relates to appointments to judicial offices) applies;
- (d) so far only as concerns the appointment of persons thereto or to act therein, the offices of permanent secretaries and the office of the Secretary to the Cabinet;
- (e) any office to which section 110 (which relates to the representatives of the State abroad) applies;
- (f) except for the purposes of making appointments thereto or to act therein, the office of Director of Public Prosecutions;
- (g) any office in the Zanzibar Police Force.

(3) The Public Service Commission, may by notice in writing direct that, subject to such conditions as may be specified in that notice, all or any of the powers mentioned in subsection (1) of this section shall in respect of such offices (being offices to which this section applies) and persons holding or acting in such offices be exercised by such officer in the public service as may be specified in the notice.

108.—(1) Power to appoint persons to hold or act in the office of Director of Audit shall vest in the Sultan acting in accordance with the advice of the Prime Minister.

Appointment of Director of Audit.

(2) Before tendering any advice for the purposes of this section the Prime Minister shall consult the Public Service Commission.

(3) If the office of Director of Audit is vacant or the holder thereof is for any reason unable to perform the functions thereof, a person qualified for appointment to that office may be appointed to act therein, and any person so appointed shall, subject to the provisions of section 109 of this Constitution, continue to act until a person has been appointed to and assumed the functions of Director of Audit or until a person holding that office has resumed those functions.

109.—(1) Subject to the provisions of this section, the Director of Audit shall vacate his office when he attains the age of 55 years or such other age as may be prescribed by Parliament.

Tenure of office of Director of Audit.

(2) The Director of Audit may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) The Director of Audit shall be removed from office by the Public Service Commission if the question of his removal from office has been referred to a tribunal appointed under subsection (4) of this section and the tribunal has recommended to the Commission that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(4) If the Prime Minister represents to the Public Service Commission that the question of removing the Director of Audit from office for inability as aforesaid or for misbehaviour ought to be investigated then—

- (a) the Commission, shall appoint a tribunal which shall consist of a Chairman and not less than two other members, being persons who hold or have held office as judge of a court having unlimited jurisdiction in civil or criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and
- (b) that tribunal shall inquire into the matter and report on the facts thereof to the Commission and recommend to the Commission whether the person ought to be removed under this section.

(5) If the question of removing the Director of Audit has been referred to a tribunal under this section, the Public Service Commission, may suspend the Director of Audit from performing the functions of his office and any such suspension may at any time be revoked by the Commission, and shall in any case cease to have effect if the tribunal recommends to the Commission that the Director of Audit should not be removed.

Appointment, etc., of principal representatives of the State abroad.

110.—(1) Power to appoint persons to hold or act in the offices to which this section applies and to remove persons as appointed from any such office shall vest in the Sultan, acting in accordance with the advice of the Prime Minister.

(2) Before tendering any advice for the purposes of this section in relation to any person who holds any public office other than offices to which this section applies, the Prime Minister shall consult the Public Service Commission.

(3) The offices to which this section applies are respectively—

- (a) the offices of any Ambassador, High Commissioner or other principal representatives of the State in countries other than the State;
- (b) the office of the person next senior to the Ambassador, High Commissioner or other principal representative, as the case may be, in a country other than the State.

Tenure of office of Director of Public Prosecutions.

111.—(1) Subject to the provisions of this section, the Director of Public Prosecutions shall vacate his office when he attains the age of fifty-five years or such other age as may be prescribed by Parliament.

(2) If the office of Director of Public Prosecutions is vacant or the holder thereof is for any reason unable to perform the functions thereof, a person qualified for appointment to that office may be appointed to act therein, and any person so appointed shall, subject to the provisions of subsection (1) and subsections (3) to (6) (inclusive) of this section, continue to act until a person has been appointed to and assumed the functions of the office of Director of Public Prosecutions or until a person holding that office has resumed those functions.

(3) The Director of Public Prosecutions may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(4) The Director of Public Prosecutions shall be removed from office by the Public Service Commission, if the question of this removal from office has been referred to a tribunal appointed under subsection (5) of this section and the tribunal has recommended to the Commission that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(5) If the Prime Minister considers that the question of removing the Director of Public Prosecutions from office for inability as aforesaid or for misbehaviour should be investigated and he advises the Public Service Commission accordingly then—

- (a) the Commission shall appoint a tribunal which shall consist of a Chairman and not less than two other members who hold or have held office as judges of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such courts; and

(b) that tribunal shall inquire into the matter and report on the facts thereof to the Commission and recommend to the Commission whether the Director ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) If the question of removing the Director of Public Prosecutions from office has been referred to a tribunal under subsection (5) of this section, the Public Service Commission may suspend the Director from performing the functions of his office, and any such suspension may at any time be revoked by the Commission acting in accordance with the advice of the Prime Minister, and shall in any case cease to have effect if the tribunal recommends to the Commission that the Director should not be removed from office.

**112.—**(1) Power to appoint persons to hold or act in any of the offices to which this section applies (including power to make appointment on promotion and transfer and to confirm appointments) and to remove persons so appointed from any such office shall vest in the Sultan, acting in accordance with the advice of the Prime Minister. Appointment of permanent secretaries, etc.

(2) Before tendering any advice for the purposes of this section the Prime Minister shall consult the Public Service Commission.

(3) The offices to which this section applies are respectively—

- (a) the office of permanent secretary;
- (b) the office of Secretary to the Cabinet.

**113.—**(1) There shall be a Police Service Commission which shall consist of a Chairman and not less than two nor more than four other members. Police Service Commission.

(2) The members of the Police Service Commission shall be appointed by the Sultan, acting in accordance with the advice of the Prime Minister.

(3) A person shall not be qualified for appointment as a member of the Police Service Commission if he is—

- (a) a member of the National Assembly; or
- (b) a public officer; or
- (c) an officer of any political party or political association.

(4) Subject to the provisions of this section, the office of a member of the Police Service Commission shall become vacant—

- (a) at the expiration of four years from the date of his appointment; or
- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Police Service Commission may be removed from office by the Sultan, acting in accordance with the advice of the Prime Minister, but he may be removed only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(6) If the office of Chairman of the Police Service Commission is vacant or if the person holding that office is for any reason unable to perform the functions of his office, then until a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed these functions, as the case may be, these functions shall be performed by such one of the other members of the Commission as may be designated in that behalf by the Sultan, acting in accordance with the advice of the Prime Minister.

(7) If at any time there is a vacancy among the members of the Police Service Commission other than the Chairman or if any such member is appointed to act as Chairman or is for any reason unable to perform the functions of his office, the Sultan, acting in accordance with the advice of the Prime Minister, may appoint a person who is qualified for appointment as a member of the Commission to act as a member, and any person so appointed shall, subject to the provisions of subsection (4) of this section, continue to act until the office in which he is acting is filled or, as the case may be, until the holder thereof resumes his functions or until his appointment to act is revoked by the Sultan, acting in accordance with the advice of the Prime Minister.

Appointment of Commissioner of Police.

**114.—**(1) Power to appoint persons to hold or act in the office of Commissioner of Police shall vest in the Sultan, acting in accordance with the advice of the Prime Minister.

(2) If the office of Commissioner of Police is vacant or the holder thereof is for any reason unable to perform the functions thereof, a person may be appointed to act therein, and any person so appointed shall, subject to the provisions of section 115 of this Constitution, continue to act until a person has been appointed to and assumed the functions of Commissioner of Police or until a person holding that office has resumed those functions.

(3) Before tendering any advice for the purposes of this section, the Prime Minister shall consult the Police Service Commission.

Tenure of office of Commissioner of Police.

**115.—**(1) Subject to the provisions of this section, the Commissioner of Police shall vacate his office when he attains the age of fifty-five years or such other age as may be prescribed by Parliament.

(2) The Commissioner of Police may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) The Commissioner of Police shall be removed from office by the Sultan if the question of his removal from office has been referred to a tribunal appointed under subsection (4) of this section and the tribunal has recommended to the Sultan that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(4) If the Prime Minister represents to the Police Service Commission that the question of removing the Commissioner of Police from office for inability as aforesaid or for misbehaviour ought to be investigated then—

- (a) the Commission, shall appoint a tribunal which shall consist of a Chairman and not less than two other members, being persons who hold or have held office as judge of a court having unlimited jurisdiction in civil or criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and
- (b) that tribunal shall inquire into the matter and report on the facts thereof to the Commission and recommend to the Commission whether the person ought to be removed under this section.

(5) If the question of removing the Commissioner of Police has been referred to a tribunal under this section, the Sultan, acting in accordance with the advice of the Prime Minister (who shall first consult the Police Service Commission), may suspend the Commissioner of Police from performing the functions of his office and any such suspension may at any time be revoked by the Sultan, acting in accordance with the advice of the Prime Minister, and shall in any case cease to have effect if the tribunal recommends that the Commissioner of Police ought not to be removed.

**116.**—(1) Power to appoint persons to hold or act in any office in the Zanzibar Police Force (including power to confirm appointments), to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office shall vest in the Police Service Commission: Appointment, etc., of senior police officers.

Provided that Parliament may confer power on the Commissioner of Police to admonish or reprimand any person holding or acting in an office (other than that of Commissioner) to which this section applies.

(2) The provisions of this section shall not apply to any of the following offices—

- (a) the office of Commissioner of Police; or
- (b) any office in the Zanzibar Police Force below the rank of Inspector.

**117.**—(1) Power to appoint persons to hold or act in any office in the Zanzibar Police Force (including power to confirm appointments) below the rank of Inspector shall vest in the Commissioner of Police and in such other officers of the Police Force as Parliament may prescribe. Appointment, etc., of subordinate police officers.

(2) Power to exercise disciplinary control over persons holding or acting in any office in the Zanzibar Police Force below the rank of Inspector and to remove such persons from office shall vest in the Commissioner of Police and in such other officers of the Police Force as may be prescribed by Parliament.

(3) An appeal shall lie to the Commissioner of Police from any decision of a police officer, other than the Commissioner of Police, to exercise disciplinary control or to remove from office any such person as is specified in subsection (2) of this section.

(4) An appeal shall lie to the Police Service Commission from any decision of the Commissioner of Police to exercise disciplinary control over or to remove from office any such person as is specified in subsection (2) of this section (including any decision determining an appeal under subsection (3) of this section other than a decision where the only punishment awarded was admonishment or reprimand).

Cap. 50. (5) The provisions of this section shall be without prejudice to the provisions of the Police Decree or any other law—

- (a) constituting acts or omissions by members of the Zanzibar Police Force as offences against Police Force discipline;
- (b) prescribing the punishment that may be imposed for any such offence;
- (c) prescribing the procedure in appeals under subsection (4) of this section.

Proceedings of Commissions.

118.—(1) Any decision of a Commission established by this Chapter of this Constitution shall require the concurrence of a majority of all the members thereof and, subject as aforesaid, the Commission may act notwithstanding the absence of any member or a vacancy among the members.

(2) Any Commission established by this Chapter may, with the consent of the Prime Minister, by regulation or otherwise regulate its own procedure or confer power or impose duties on any officer or authority of the Government for the purpose of discharging its functions.

Preference to be given to Zanzibar subjects.

119. In making all appointments of officers a Commission established by this Constitution shall give priority to Zanzibar subjects due regard being paid to the necessity of maintaining a high standard of efficiency among such officers.

Special provisions with regard to pensions and like benefits.

120.—(1) Where under any law any person or authority has a discretion—

- (a) to decide whether or not any pensions benefits shall be granted; or
- (b) to withhold, reduce in amount or suspend any such benefits that have been granted, those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the Public Service Commission concurs in the refusal to grant the benefits, or, as the case may be, in the decision to withhold them, reduce them in amount or suspend them.

(2) Where the amount of any pensions benefits that may be granted to any person is fixed by law, the amount of the benefits to be granted to him shall be the greatest amount for which he is eligible unless the Public Service Commission concurs in his being granted benefits of a smaller amount.

(3) The Public Service Commission shall not concur under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held the office of Chief Justice, puisne judge, Director of Audit, Director of Public Prosecutions or Commissioner of Police has been guilty of misbehaviour in that office unless he has been removed from that office by reason of such misbehaviour.

(4) Before the Public Service Commission concurs under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held any office to which, at the time of such action, section 98 of this Constitution applies has been guilty of misbehaviour in that office, the Public Service Commission shall consult the Judicial Service Commission.

(5) Before the Public Service Commission concurs under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held any office in the Zanzibar Police Force other than the Commissioner of Police has been guilty of misbehaviour in that office, the Public Service Commission shall consult the Police Service Commission.

(6) In this section "pensions benefits" means any pensions compensation, gratuities or other like allowances for persons in respect of their service as public officers or for the widows, children, dependents or personal representatives of such persons in respect of such service.

**121.**—(1) The law applicable to any benefits to which this section applies shall, in relation to any person who has been granted or is or may become eligible for the grant of such benefits, be that in force at the relevant date or any later law that is not less favourable to that person. Protection  
of pension  
rights.

(2) In this section "the relevant date" means—

- (a) in relation to benefits granted before the tenth day of December, 1963, the date on which those benefits were granted;
- (b) in relation to benefits granted or that may be granted after the tenth day of December, 1963, to or in respect of a person who was a public officer before that date, the ninth day of December, 1963; and
- (c) in relation to any benefits granted or that may be granted in respect of any person who becomes a public officer after the tenth day of December, 1963, the date on which he becomes a public officer.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law for which he opts shall, for the purposes of this section, be deemed to be more favourable to him than the other law or laws.

(4) Any benefits to which this section applies (to the extent that those benefits are not a charge upon some other public fund) shall be a charge on the Consolidated Fund.

(5) The benefits to which this section applies are any benefits payable under any law providing for the grant of any pensions, compensation, gratuities or other like allowances to persons in respect of their service as public officers or to the widows, children, dependents or personal representatives of such persons in respect of such service.

(6) References to the law applicable to any benefits to which this section applies include (without prejudice to their generality) references to any law regulating, for the purpose of determining whether any person is eligible for the grant of such benefits on his retirement from the public service of the State, the circumstances in which he is required or permitted to retire.

## CHAPTER IX

### MISCELLANEOUS

Unqualified persons sitting or voting in National Assembly.

122.—(1) Any person who—

(a) having been elected a member of the National Assembly but not having been, at the time of such election, qualified to be so elected, sits or votes in the Assembly; or

(b) sits or votes in the Assembly after his seat therein has become vacant or he has become disqualified from sitting or voting therein, knowing or having reasonable grounds for knowing, that he was so disqualified or that his seat has become vacant, as the case may be, shall be liable to a penalty not exceeding five hundred shillings for every day upon which he so sits or votes.

(2) The penalty prescribed by subsection (1) shall be recoverable by action in the High Court at the suit of the Attorney-General and when recovered, shall be credited to the general revenue of the State.

Resignation.

123.—(1) Any person who is appointed, elected or otherwise selected to any office established by this Constitution or any office of Minister established under this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed, elected or otherwise selected:

Provided that—

(a) the resignation of any person from the office of member of the National Assembly; and

(b) the resignation of any person from the office of Chairman or member of a Committee of the Assembly, shall be addressed to the Speaker of the Assembly or when there is no Speaker or the Speaker is absent from the State or is unable to perform the functions of his office, to the Deputy Speaker.

(2) The resignation of any person from any such office as aforesaid shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or any person authorised by that person or authority to receive it.

**124.**—(1) Where any person has vacated any office established by this Constitution or any office of Minister established under this Constitution he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution. Re-appointment and concurrent appointments.

(2) Where this Constitution vests in any person or authority the power to make any appointment to any office, a person may be appointed to that office, notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending the relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection then, for the purposes of any function conferred upon the holder of that office, the person last appointed shall be deemed to be the sole holder of the office.

**125.** There shall be a Public Seal of the State of Zanzibar, which Seal shall be of such device as Parliament shall prescribe and shall be kept and used in such manner as Parliament shall prescribe. Public Seal.

## CHAPTER X

### TRANSITIONAL PROVISIONS

**126.**—(1) If the Prime Minister so requests, the authorities having power to make appointments in any branch of the public service shall consider whether there are more local candidates suitably qualified for appointment to, or promotion in, that branch than there are vacancies in that branch that could appropriately be filled by such local candidates; and those authorities if satisfied that such is the case, shall, if so requested by the Prime Minister, select officers in that branch to whom this subsection applies and whose retirement would in the opinion of those authorities cause vacancies that could appropriately be filled by such suitably qualified local candidates as are available and fit for appointment and inform the Prime Minister of the number of officers so selected; and if the Prime Minister specifies a number of officers to be called upon to retire (not exceeding the number of officers so selected), those authorities shall nominate that number of officers from among the officers so selected by the authorities and by notice in writing require them to retire from the public service; and any officer who is so required to retire shall retire accordingly. Retirement of entitled officers.

(2) This section applies to any entitled officer for the purposes of the Zanzibar (Compensation and Retiring Benefits) Regulations other than an entitled officer who is for the time being the holder of the office of judge of the High Court, Director of Audit, Director of Public Prosecutions or Commissioner of Police.

(3) In this section the expression "local candidates" means candidates who are Zanzibar subjects.

Appeals in respect of certain decisions affecting pensions and like benefits.

**127.**—(1) The following provisions of this section shall have effect for the purpose of enabling any officer (being an entitled officer to whom section 126 of this Constitution applies) or his personal representatives to appeal against a decision to which this section applies, that is to say a decision within any of the following classes:—

- (a) a decision of the Public Service Commission to give such concurrence as is required by section 120 of this Constitution in relation to the refusal, withholding reduction in amount or suspension of any benefits in respect of such an officer's service as a public officer;
- (b) a decision by any authority to dismiss such an officer if the consequence of the dismissal is that any benefits cannot be granted in respect of the officer's service as a public officer;
- (c) a decision by any authority to take some other disciplinary action in relation to such an officer if the consequence of the action is to reduce the amount of any benefits that may be granted in respect of the officer's service as a public officer.

(2) Where any decision such as is referred to in subsection (1) of this section is taken by any authority, the authority shall cause to be delivered to the officer concerned, or his personal representatives, a written notice of that decision stating the time, not being less than twenty-eight days from the date on which the notice is delivered, within which he, or his personal representatives, may apply to the authority for the case to be referred to an Appeals Board.

(3) If application is duly made to an authority within the time stated in such a notice as is mentioned in subsection (2) of this section for a case to be referred to an Appeals Board, the authority shall notify the Prime Minister in writing of that application and thereupon the Prime Minister shall appoint an Appeals Board for that purpose consisting of—

- (a) one member selected by the Prime Minister;
- (b) one member selected by an association representative of public officers or a professional body, nominated in either case by the applicant; and
- (c) one member selected by the two other members jointly (or, in default of agreement between those members, by the Chief Justice) who shall be the Chairman of the Board.

(4) Such an Appeals Board shall inquire into the facts of the case that is referred to it, and for that purpose the Board—

- (a) shall, if the applicant so requests in writing, hear the applicant either in person or by a legal representative of his choice, according to the terms of the request;
- (b) may hear any other person who, in the opinion of the Board, is able to give the Board information on the case; and
- (c) shall have access to, and shall consider, all documents that were available to the Service Commission concerned and shall also consider any further document relating to the case that may be produced by or on behalf of the applicant of the Commission.

(5) When such an Appeals Board has completed its consideration of the case, then—

- (a) if the decision that is the subject of the reference to the Board is a decision such as is mentioned in paragraph (a) of subsection (1) of this section, the Board shall advise the Public Service Commission whether the decision should be affirmed, reversed or modified and the Commission shall act in accordance with that advice;
- (b) if the decision that is the subject of the reference to the Board is a decision such as is mentioned in paragraph (b) or (c) of subsection (1) of this section, the Board shall not have power to advise the authority responsible for making the decision to affirm, reverse or modify the decision but the Board may advise the person or authority responsible for granting the benefits in question—
  - (i) where the officer has been dismissed, to grant all or part of the benefits for which the officer concerned would have been eligible under any law if he had retired voluntarily at the date of the dismissal; or
  - (ii) where some other disciplinary action has been taken in relation to the officer, that on the grant of any benefits under any law in respect of the officer's service such benefits shall be increased by such amount, or shall be calculated in such manner, as the Board may specify in order to offset all or any part of the reduction in the amount of such benefits that, in the opinion of the Board, would or might otherwise be a consequence of the action, and that person or authority shall act in accordance with that advice and the provisions of that law shall have effect accordingly.

128.—(1) Subject to the provisions of this section, the operation of the existing laws after the commencement of this Constitution shall not be affected by the termination of the jurisdiction in the State of Her Majesty the Queen of England or the repeal of the existing Constitution Decree but the existing laws shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Constitution. Existing laws.

(2) Subject as aforesaid and without prejudice to the generality of subsection (1) of this section—

- (a) references in any existing law to the Protectorate shall be construed as references to the State;
- (b) references in any existing law to the British Court or to Her Britannic Majesty's Court shall be construed as references to the High Court;
- (c) references in any existing law to the British Resident or to the Resident-in-Council shall be construed as references to the Minister for the time being responsible for the matter in question.
- (d) references in the Criminal Procedure Decree to the Attorney-General shall be construed as references to the Director of Public Prosecutions.

Cap. 14.

(3) The Sultan may by order made at any time before 10th June, 1964, make such amendments to any existing law as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of this Constitution or otherwise for giving effect or enabling effect to be given to those provisions.

(4) Where any matter that falls to be prescribed or otherwise provided for under this Constitution by Parliament or by any other authority or person is prescribed or provided for by or under an existing law (including any amendment to any such law made under this section) or is otherwise prescribed or provided for immediately before the commencement of this Constitution by or under the existing Constitution Decree, that prescription or provision shall, as from the commencement of this Constitution, have effect as if it had been made under this Constitution by Parliament, or as the case may be, by the other authority or person.

(5) The provisions of this section shall be without prejudice to any powers conferred by this Constitution upon any person or authority to make provision for any matter, including any amendment or repeal of any existing law.

(6) For the purpose of this section "existing laws" means all laws in force in the State immediately before the commencement of this Constitution including any enactments extended to the Zanzibar Protectorate by sections 25 or 27 of the Zanzibar Order in Council, 1924, which have effect as part of the law of the State.

(7) Nothing in this section shall continue in force the Zanzibar Orders in Council, 1924 to 1963.

Existing  
offices.

129.—(1) Subject to the provisions of subsection (4) of this section where any office has been established by or under the existing Constitution Decree and this Constitution establishes a similar or an equivalent office, any person who immediately before the commencement of this Constitution holds or is acting in the former office shall, so far as is

consistent with the provisions of this Constitution, be deemed to have been appointed as from the commencement of this Constitution to hold or to act in the latter office in accordance with the provisions of this Constitution and to have taken any necessary oath under this Constitution:

Provided that any person who under the existing Constitution Decree or under any existing law would have been required to vacate his office at the expiration of any period shall vacate his office at the expiration of that period.

(2) The person holding the office of Attorney-General immediately before the commencement of this Constitution shall, until another person is appointed to hold the office of Director of Public Prosecutions or until he ceases to hold the office of Attorney-General, also hold the office of Director of Public Prosecutions.

(3) The persons holding, immediately before the commencement of this Constitution, the office of Chief Justice or a judge of the High Court established by the Zanzibar Orders in Council 1924 to 1963 shall be deemed to have been appointed, as from the commencement of this Constitution, to be the Chief Justice and a judge respectively of the High Court established by this Constitution to hold office in accordance with the provisions of this Constitution and to have taken any necessary oaths under this Constitution.

(4) This section shall not apply to the office of chairman or member of the Public Service Commission, the Judicial Service Commission or the Police Service Commission.

**130.**—(1) The persons who, immediately before the commencement of this Constitution, are elected members of the National Assembly constituted by the existing Constitution Decree, shall, as from the commencement of this Constitution, be deemed to have been elected to the National Assembly constituted by this Constitution to represent the same constituencies as the constituencies for which they were respectively elected under the provisions of the existing Constitution Decree and the existing laws, and shall hold their seats in the Assembly in accordance with the provisions of this Constitution.

Members of  
National  
Assembly.

(2) The National Assembly constituted by this Constitution shall, unless sooner dissolved, stand dissolved on the twenty-first day of August, 1966.

**131.** Until the Electoral Constituencies Commission alters the boundaries of the constituencies into which the State is divided under section 53 of this Constitution and those alterations come into effect under that section, the State shall, for the purposes of elections to the National Assembly, be divided into constituencies having the same boundaries as the boundaries prescribed under section 3 of the National Assembly (Elections) Decree.

Constitu-  
encies.

Cap. 89.

Legal proceedings.

132. Any proceedings pending immediately before the commencement of this Constitution before the High Court of Zanzibar established by the Zanzibar Order in Council 1924 may be continued after the commencement of this Constitution before the High Court established by this Constitution.

Appeals pending to Privy Council.

133.—(1) Any appeal pending immediately before the commencement of this Constitution before the Judicial Committee of the Privy Council of the United Kingdom on appeal from the Court of Appeal for Eastern Africa in a case originating in the Protectorate of Zanzibar and in which the records have been registered in the office of the said Privy Council before the commencement of this Constitution may be continued before and disposed of by that Committee.

(2) The following judgments may be enforced after the commencement of this Constitution as if they were judgments of the Court of Appeal—

- (a) any order or decree of Her Majesty in Council made in pursuance of any recommendation of the Judicial Committee of the Privy Council of the United Kingdom in an appeal originating in the Protectorate of Zanzibar (not being an order or decree which has been satisfied before the commencement of this Constitution);
- (b) any report or recommendation of the Judicial Committee of the Privy Council of the United Kingdom made in relation to any such appeal as is referred to in subsection (1) of this section.

Procedure of National Assembly.

134. The Standing Orders of the National Assembly constituted by the existing Constitution Decree as in force immediately before the commencement of this Constitution shall, until it is otherwise provided under section 64 of this Constitution, be the Standing Orders of the National Assembly but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring those Standing Orders into conformity with this Constitution.

Federation of Rhodesia and Nyasaland.

135. Upon the dissolution of the Federation of Rhodesia and Nyasaland the Minister may by order direct that in subsection (3) of section 10 of this Constitution there shall be substituted for "the Federation of Rhodesia and Nyasaland" all or any of the territories formerly comprising the Federation of Rhodesia and Nyasaland if such territory or territories shall then be a Sovereign State or Sovereign States as the case may be and shall elect to be associated with the other countries to which section 10 of this Constitution applies as a member or members as the case may be of the Commonwealth.

## CHAPTER XI

### INTERPRETATION, COMMENCEMENT AND TITLE

Interpretation.

136.—(1) In this Constitution, unless the context otherwise requires—  
"Act of Parliament" means any law made by Parliament;

"Court of Appeal" means the Court of Appeal for the time being established under the Constitution of the East African Common Services Organisation or its successor;

“financial year” means the period of twelve months ending on 30th June in any year or such other day as Parliament may prescribe;

“meeting” means any sitting or sittings of the National Assembly commencing when the Assembly first meets after being summoned at any time and terminating when the Assembly is adjourned *sine die* or at the conclusion of a session;

“Minister” means a person appointed as a Minister under the provisions of subsection (3) of section 72 of this Constitution;

“oath” includes affirmation;

“oath of allegiance” means such oath of allegiance as may be prescribed by law;

“public office” means an office of emolument in the public service;

“public officer” means a person holding or acting in any public office;

“the public service” means, subject to the provisions of subsections (3), (4) and (5) of this section, the service of the Government of the State in a civil capacity;

“the State” means the State of Zanzibar;

“the State of Zanzibar” means the Islands of Zanzibar, Pemba and Latham including the territorial waters thereof, and any islets within those waters;

“session” means the sittings of the National Assembly commencing when the Assembly first meets after the commencement of this Constitution or after the prorogation or dissolution of Parliament at any time and ending when Parliament is prorogued or is dissolved without having being prorogued;

“sittings” means a period during which the National Assembly is sitting continuously without adjournment and includes any period during which it is in Committee.

(2) (a) In this Constitution “the Leader of the Opposition” means that member of the National Assembly who is for the time being the leader in the Assembly of the party in opposition to the Government having the greatest numerical strength in the Assembly.

(b) During any period when Parliament stands dissolved the person who was the leader in the National Assembly of the party in opposition to the Government having the greatest numerical strength in the Assembly immediately prior to the dissolution shall be deemed to be the Leader of the Opposition.

(c) If any doubt arises as to which was at any material time the party in opposition to the Government having the greatest numerical strength in the National Assembly or as to who is or was at any material time the leader in the Assembly of such a party, the question shall be decided by the Speaker of the Assembly and his decision shall be final.

(3) In this Constitution, unless the context otherwise requires, references to offices in the public service shall be construed as including references to the offices of judges of the High Court and references to the offices of members of all other courts of law established by Parliament, being offices the emoluments attaching to which are paid directly out of monies provided by Parliament, and references to the offices of members of the Zanzibar Police Force.

(4) In this Constitution references to an office in the public service shall not be construed as including references to the office of the Speaker or Deputy Speaker of the National Assembly, the Prime Minister or other Minister, Assistant Minister, a member of the Assembly or a member of any Commission established by this Constitution.

(5) For the purposes of this Constitution, a person shall not be considered as holding a public office by reason only of the fact that he is in receipt of a pension or other like allowance in respect of service under the Government of the State.

(6) In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the term designating his office shall be construed as including a reference to any person for the time being lawfully acting in or performing the functions of that office.

(7) References in this Constitution to the power to remove a public officer from his office shall be construed as including references to any power conferred by any law to require or permit that officer to retire from the public service:

Provided that—

- (a) nothing in this subsection shall be construed as conferring on any person or authority power to require a judge of the High Court, the Director of Public Prosecutions, the Director of Audit or the Commissioner of Police to retire from the public service; and
- (b) any power conferred by any law to permit a person to retire from the public service shall, in the case of any public officer who may be removed from office by some person or authority other than a Commission established by this Constitution, vest in the Public Service Commission.

(8) Any provision in this Constitution that vests in any person or authority power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish any office or to any law providing for the compulsory retirement of public officers generally or any class of public officer on attaining an age specified therein.

(9) Where power is vested by this Constitution in any person or authority to appoint any person to act in or perform the functions of any office if the holder thereof is himself unable to perform those

functions, no such appointment shall be called in question on the ground that the holder of the office was not unable to perform those functions.

(10) No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in the exercise of any functions under this Constitution shall be construed as precluding a court of law from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Constitution or any other law.

(11) Where any power is conferred by this Constitution to make any order or rule, or nominate, or give any direction, the power shall be construed as including the power, exercisable in like manner, to amend or revoke any such order, rule, nomination or direction.

(12) In computing time—

(a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day on which the event happens or the act or things is done;

(b) if the last day of the period is Sunday or a public holiday (which days are in this section referred to as excluded days) the period shall include the next following day, not being an excluded day;

(c) when any act or proceeding is directed or allowed to be done or taken on a certain day, then if that day is or becomes an excluded day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being an excluded day;

(d) when an act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, excluded days shall not be reckoned in the computation of the time.

Computation of time.

137. The Constitution Decree, 1963 is hereby repealed with effect from the tenth day of December, 1963.

Repeal. No. 10 of 1963.

138. This Act may be cited as the Constitution of the State of Zanzibar and shall come into operation on the tenth day of December, 1963.

Title and commencement.

## FIRST SCHEDULE

### (Section 3)

#### PART I

#### QUALIFICATIONS FOR NATURALISATION

Subject to the provisions of the next following paragraph, the qualifications for naturalisation of an alien who applies therefor are—

(a) that he has resided in the Dominions of the Sultan throughout the period of twelve months immediately preceding the date of the application; and

- (b) that during the seven years immediately preceding the said period of twelve months he has resided in the Dominions of the Sultan for periods amounting in the aggregate to not less than four years; and
- (c) that he is of good character;
- (d) that he has sufficient knowledge of at least one of the following languages:—
  - (i) English;
  - (ii) Arabic;
  - (iii) Kiswahili; and
- (e) that in the event of a grant to him of a certificate he intends to reside in the Dominions of the Sultan.

2. The Minister may, if in the special circumstances of any particular case he thinks fit, allow a continuous period of twelve months ending not more than six months before the date of the application to be reckoned, for the purposes of sub-paragraph (a) of the last preceding paragraph, as if it had immediately preceded that date.

**PART II**  
**AFFIRMATION OF ALLEGIANCE**

I, A.B., do solemnly and sincerely affirm that I will be faithful and bear true allegiance to His Majesty the Sultan and His successors.

**SECOND SCHEDULE**  
**(Section 36)**

**OATH TO BE TAKEN BY THE REGENT**

I swear that I will truly and faithfully execute the office of Regent, and that I will govern according to law, and will, in all things, to the utmost of my power and ability, consult and maintain the safety, honour and dignity of His Majesty the Sultan and the welfare of His people. So help me God.

**THIRD SCHEDULE** Form I  
**THE CONSTITUTION OF THE STATE OF ZANZIBAR**  
**(Section 83)**

**OATH OR DECLARATION TO BE MADE BY A MINISTER**

I, ....., having been appointed a Minister, <sup>\*swear by Almighty God</sup> \_\_\_\_\_ that, except with the authority of the Prime Minister, I ..... solemnly and sincerely declare will not directly or indirectly reveal the business or proceedings of the Cabinet of Ministers or the nature or contents of any document communicated to me as a Member of the Cabinet or any matter coming to my knowledge in my capacity as a Member of the Cabinet, but that in all things I will serve His Majesty the Sultan as a true and faithful Councillor.

\*Delete words not required.

Form II

THE CONSTITUTION OF THE STATE OF ZANZIBAR  
(Section 85)

OATH OR DECLARATION TO BE MADE BY THE SECRETARY TO THE  
CABINET OF MINISTERS

I, ....., having been appointed  
\*swear by Almighty God

Secretary to the Cabinet of Ministers, \_\_\_\_\_  
solemnly and sincerely declare  
that, except with the authority of the Prime Minister, I .....  
will not directly or indirectly reveal the business or proceedings of the  
Cabinet of Ministers or the nature or contents of any document  
communicated to me as a Secretary to the Cabinet or any matter coming  
to my knowledge in my capacity as a Secretary to the Cabinet, but  
that I will well and truly serve in the said office as Secretary to the  
Cabinet.

\*Delete words not required.

Form III

THE CONSTITUTION OF THE STATE OF ZANZIBAR  
(Section 65(2) )

OATH OR DECLARATION TO BE MADE BY AN INTERPRETER EMPLOYED  
IN THE NATIONAL ASSEMBLY

I, .....  
\*swear by Almighty God

solemnly and sincerely declare  
that I understand the English and †..... languages and  
that I will, to the best of my skill and understanding, well and truly  
interpret and true explanation make between the Members of the  
National Assembly who are conversant with the English language and  
those who are conversant with the †..... language.

\*Delete words not required. †Insert second language.

Form IV

THE CONSTITUTION OF THE STATE OF ZANZIBAR  
(Section 66(1) )

OATH OR DECLARATION TO BE MADE BY A MEMBER OF THE  
NATIONAL ASSEMBLY

I, ....., being a Member of the  
\*swear by Almighty God

National Assembly \_\_\_\_\_ that I will, without fear  
solemnly and sincerely declare  
or favour and to the best of my ability and judgment, serve His Majesty  
the Sultan as a true and faithful Member of the National Assembly.

\*Delete words not required.

THE CONSTITUTION OF THE STATE OF ZANZIBAR  
(Section 51(3) )

OATH OR DECLARATION TO BE MADE BY THE CLERK OF THE  
NATIONAL ASSEMBLY

I, ....., having been  
appointed Clerk of the National Assembly, <sup>\*swear by Almighty God</sup>  
solemnly and sincerely declare  
that I will well and truly serve in the said office as Clerk of the National  
Assembly.

\*Delete words not required.

FOURTH SCHEDULE

ENTRENCHED PROVISIONS OF THE CONSTITUTION  
(Section 58(1) )

- (a) Sections 1, 2, 4, 5, 6, 7, 8, 9, 10 (other than subsection (3) thereof),  
11, 12, 13;
- (b) The whole of Chapter II;
- (c) The whole of Chapter III;
- (d) Sections 39, 42, 43, 48, 49, 52, 53, 54, 55, 56, 57, 58, 62, 67, 68,  
69, 70, 71, 72, 73, 74, 75, 87, 89, 92, 93, 94, 96, 97, 98;
- (e) The whole of Chapter VII;
- (f) Chapter VIII excluding only sections 110, 112 and 119 which are  
contained therein.

Passed in the Constituent Assembly on the 27th day of November,  
1963.

S. M. SHUKLA,  
*Clerk to the Constituent Assembly*