

(4) In the discharge of duties and functions in accordance with this Article, the Attorney-General shall be entitled to appear and be heard in all courts in the United Republic.

(5) The Attorney-General shall be a Member of Parliament by virtue of office, and shall hold office until -

- (a) his appointment is revoked by the President; or
 - (b) immediately before the President elect assumes office,
- and he shall be paid a salary, allowances and other remuneration in accordance with a law enacted by Parliament.

Deputy
Attorney
General
Act No.1
of 2005
Art.12

59A.-(1) There shall be a Deputy Attorney General of the United Republic, who shall be appointed by the President from amongst persons with qualifications specified in subarticle (2) of Article 59, and has continuously held those qualifications for a period of not less than ten years.

(2) The Deputy Attorney General shall be the principal assistant in the discharge of duties and functions of the Attorney General and shall discharge other duties and functions as may be assigned by the Attorney General.

Director of
Public
Prosecutions
Act No.1
of 2005
Art.12

59B.-(1) There shall be a Director of Public Prosecutions who shall be appointed by the President from amongst persons with qualifications specified in subarticle (2) of Article 59 and has continuously held those qualifications for a period of not less than ten years.

(2) The Director of Public Prosecutions shall have powers to institute, prosecute and supervise all criminal prosecutions in the country.

(3) The powers of the Director of Public Prosecutions under subarticle (2), may be exercised by him in person or on his directions, by officers under him or any other officers who discharge these duties under his instructions.

(4) In exercising his powers, the Director of Public Prosecutions shall be free, shall not be interfered with by any person or with any authority and shall have regard to the following -

- (a) the need to dispensing justice;
 - (b) prevention of misuse of procedures for dispensing justice; and
 - (c) public interest.
- (5) The Director of Public Prosecutions shall exercise his powers as may be prescribed by any law enacted or to be enacted by the Parliament.

Secretary to the
Cabinet
Act No.15
of 1984
Art.9

60. There shall be a Secretary to the Cabinet who shall be the chief executive officer in the office of the Cabinet, and he shall discharge the following functions, in compliance with the general or specific directions issued to him by the President, that is to say:

- (a) to work out a programme for Cabinet meetings and prepare the agenda for each meeting;
- (b) to record minutes and maintain a record of Cabinet meetings;
- (c) to notify and explain the decisions of the Cabinet to every person or public institution concerned with any such decision; and
- (d) to discharge any other duties and functions as shall be directed

Regional
Commissioners
Act No.15
of 1984
Art.9

from time to time by the President.

61.-(1) There shall be a Regional Commissioner for each region within the United Republic who, subject to subarticle (3), shall be a leader in the Government of the United Republic.

(2) Regional Commissioners in Mainland Tanzania shall be appointed by the President, after consultation with the Prime Minister.

(3) Regional Commissioners in Tanzania Zanzibar shall be appointed by the President of Zanzibar, after consultation with the President.

(4) Without prejudice to the provisions of subarticle (5), every Regional Commissioner shall have the duty to supervise the discharge of all the duties and functions of the Government of the United Republic in the region assigned to him and for that purpose, he shall discharge all duties and functions specified by or under any written law as being functions of a Regional Commissioner, and shall exercise all such powers specified by any law enacted by Parliament.

(5) In addition to his duties and functions specified in the preceding provisions of this Article, a Regional Commissioner for any region in Tanzania Zanzibar shall discharge the duties and functions of the Revolutionary Government of Zanzibar which shall be assigned to him by the President of Zanzibar and in accordance with the Constitution of Zanzibar, 1984, or any law enacted by the House of Representatives.

CHAPTER THREE THE LEGISLATURE OF THE UNITED REPUBLIC

PART I PARLIAMENT

Parliament
Act No.15
of 1984
Art.12

62.-(1) There shall be a Parliament of the United Republic which shall consist of two parts, that is to say, the President and the National Assembly.

(2) The National Assembly shall consist of all categories of members specified in Article 66 of this Constitution, who shall all be designated as Members of Parliament.

(3) Whenever any matter requires to be decided or done by both parts of Parliament in accordance with the provisions of this Constitution, or of any other law, then that matter shall not be taken to have been duly decided or done unless it is decided or done by the Members of Parliament and also by the President in accordance with their respective authority in relation to that matter.

Authority of
Parliament
Act No.15
of 1984
Art.12
Act No.4
of 1992
Art.17
Act No.20

63.-(1) The President as one part of Parliament shall exercise all the authority vested in him by this Constitution for that purpose.

(2) The second part of Parliament shall be the principal organ of the United Republic which shall have the authority on behalf of the people to oversee and advise the Government of the United Republic and all its organs in the discharge of their respective responsibilities in accordance with this Constitution.

(3) For the purposes of performing its functions, the National Assembly may -

of 1992
Art.11

- (a) ask any question to any Minister concerning public affairs in the United Republic which are within his responsibility;
- (b) debate the performance of each Ministry during the annual budget session of the National Assembly;
- (c) deliberate upon and authorize any long or short term plan which is intended to be implemented in the United Republic and enact a law to regulate the implementation of that plan;
- (d) enact law where implementation requires legislation; and
- (e) deliberate upon and ratify all treaties and agreements to which the United Republic is a party and the provisions of which require ratification.

Legislative
power
Act No.15
of 1984
Art.12

64.-(1) Legislative power in relation to all Union Matters and also in relation to all other matters concerning Mainland Tanzania is hereby vested in Parliament.

(2) Legislative power in Tanzania Zanzibar over all matter which are not Union Matters is hereby vested in the House of Representatives.

(3) Where any law enacted by the House of Representatives concerns any matter in Tanzania Zanzibar which is within the legislative jurisdiction of Parliament, that law shall be null and void, and likewise if any law enacted by Parliament concerns any matter which is within the legislative jurisdiction of the House of Representatives that law shall be null and void.

(4) Any law enacted by Parliament concerning any matter shall not apply to Tanzania Zanzibar save in accordance with the following provisions:

- (a) such law shall have expressly stated that it shall apply to Mainland Tanzania as well as to Tanzania Zanzibar or it replaces, amends or repeals a law which is in operation in Tanzania Zanzibar;
- (b) such law replaces or amends or repeals a law which was previously in operation in Mainland Tanzania and also in operation in Tanzania Zanzibar pursuant to the Articles of the Union of Tanganyika and Zanzibar, or pursuant to any law which expressly stated that it shall apply to Mainland Tanzania as well as Tanzania Zanzibar; or
- (c) such law relates to Union Matters; and whenever reference is made to the term "Tanzania" in any law, it is hereby declared that such law shall apply in the United Republic in accordance with the interpretation contained in the provisions of this Article.

(5) Without prejudice to the application of the Constitution of Zanzibar in accordance with this Constitution concerning all matters pertaining to Tanzania Zanzibar which are not Union Matters, this Constitution shall have the force of law in the whole of the United Republic, and in the event any other law conflicts with the provisions contained in this Constitution, the Constitution shall prevail and that other law, to the extent of the inconsistency with the Constitution, shall be void.

Life of
Parliament

65.-(1) Subject to the other provisions of this Constitution, the life of

Act No.15
Of 1984
Art.12

each Parliament shall be five years.

(2) For the purposes of this Constitution the expression “life of Parliament” means that whole period commencing from the date the new Parliament was first summoned after General Elections and ending on the date of dissolution of that Parliament for the purpose of enabling the holding of another ordinary general election.

PART II MEMBERS, CONSTITUENCIES AND ELECTION OF MEMBERS

Members of the National Assembly

Members of
Parliament
Act No.15
of 1984
Art.13
Act No.4
of 1992
Art.18;
Act No.12
of 1995
Art.9
Act No.3
of 2000
Art. 11
Act No.1
of 2005
Art. 13
G.N.No.150
of 2005

66.-(1) Subject to the other provisions of this Article, there shall be the following categories of Members of Parliament, that is to say:-

- (a) members elected to represent constituencies;
- (b) women members being not less than thirty percentum of all the members mentioned in paragraphs (a), (c), (d), (e) and (f) with qualifications mentioned in Article 67 elected by the political parties in accordance with Article 78, on the basis of proportion of votes;
- (c) five members elected by the House of Representatives from among its members;
- (d) the Attorney General;
- (e) not more than ten members appointed by the President from amongst persons with qualifications specified under paragraphs (a) and (c) of subarticle (1) of Article 67 and, at least five members amongst them shall be women; and
- (f) the Speaker, if he is not elected from amongst the members.

(2) The President and the Vice-President shall each not be a Member of Parliament.

(3) Where a Regional Commissioner is elected a Member of Parliament representing a constituency or where a Member of Parliament representing a constituency is appointed a Regional Commissioner, the National Assembly shall be deemed to consist of the requisite number of members and its proceedings shall be valid notwithstanding that the ordinary total number of members in terms of this Article shall have been reduced by reason of such election of the Regional Commissioner or such appointment of a constituency member.

Qualifications
for Member of
Parliament
Act No.15
of 1984
Art.13
Act No.4

67.-(1) Subject to the provisions contained in this Article, any person shall be qualified for election or appointment as a Member of Parliament if he -

- (a) is a citizen of the United Republic who has attained the age of twenty-one years and who can read and write in Kiswahili or English; and
- (b) is a member and a candidate proposed by a political party.

of 1992
Art.19;
Act No.34
of 1994
Art.13
Act No.12
of 1995
Art.10
Act No.3
of 2000
Art.12

(2) A person shall not be qualified to be elected or appointed Member of Parliament if -

- (a) such person possesses or voluntarily acquires the citizenship of any other country;
- (b) in accordance with a law applicable in the United Republic it has been formally certified that such person is of unsound mind;
- (c) such person has been convicted by any court in the United Republic and sentenced to death or to a term of imprisonment exceeding six months for any offence however styled involving dishonesty;
- (d) within a period of five years preceding the date of a general election such person has been convicted and sentenced to imprisonment for an offence involving dishonesty or for contravening the law concerning ethics of public leaders;
- (e) without prejudice to a person's right and freedom to hold his own views, to profess a religious faith of his choice, to associate with others and to participate in community work in accordance with the laws of the land, if he is not a member of, and a candidate proposed by, a political party;
- (f) such person has an interest in any Government contract of any kind in respect of which special restrictions are prescribed by Act of Parliament and he has contravened such restrictions;
- (g) such person holds a senior office in the service of the Government of the United Republic, not being an office of which the President may or is required to appoint a Member of Parliament in accordance with this Constitution or a law enacted by Parliament;
or
- (h) in accordance with a law enacted by Parliament dealing with offences concerning election of any kind such person has been disqualified from registering as a voter or from voting in a Parliamentary election.

(3) A person shall not be competent to contest for election as a constituency Member of Parliament at any general election if he is at the same time contesting for election to the office of President, nor shall he be competent to contest for election as a Member of Parliament at any by-election if he is President.

(4) Parliament may enact a law making provisions disqualifying a person from being elected Member of Parliament representing a constituency if such person holds an office whose functions involve the conduct of, or supervision over, the election of Members of Parliament or the registration of voters for the elections of Members of Parliament; save that such law shall not make provision disqualifying the Speaker from being elected Member of Parliament representing a constituency nor make provisions which cause a person elected Speaker to vacate that office of Speaker or his ordinary seat as Member of Parliament.

(5) Parliament may enact a law for the purpose of making provisions for

the disqualification of a person from being elected a Member of Parliament representing a constituency for any period, to be specified by Parliament (save that such period shall not exceed five years) if such person shall be convicted by a court for any type of offences, in connection with the election of Members of Parliament, as specified in that law.

(6) For the purposes of giving opportunity to appeal according to law to any person who has been formally certified to be of unsound mind or convicted and sentenced to death or imprisonment, or convicted for any offence specified under the law in terms of subarticle (5) of this Article, Parliament may enact law providing that such judgment being appealed against by that person shall have no effect for the purposes of the provisions of subarticle (2) or (5) of this Article until the expiration of the period to be specified in such legislation.

(7) The following rules shall apply for the purposes of interpreting paragraphs (c), (d) and (e) of subarticle (2) of this Article, that is to say-

(a) where a person has been awarded two or more prison sentences to run consecutively, such sentences shall be regarded to be separate provided that each of the sentences does not exceed six months; but if the period specified in any of the sentences exceeds six months, such sentences shall be regarded as one sentence; and

(b) if a person is sentenced to imprisonment where he could otherwise have been sentenced to a fine, or where the sentence of imprisonment is imposed for failure to pay a fine ordered, then such period of imprisonment shall not be taken into account.

(8) In paragraph (f) of subarticle (2) of this Article "Government contract" means any contractual agreement in which one of the parties is the Government of the United Republic or the Revolutionary Government of Zanzibar or any department of that Government or any officer of the Government who has taken part on behalf of the Government.

(9) [Subarticles (9), (10), (11) and (12) are repealed by Act No.4 of 1992 Art.19 (d)].

(10) For the purposes of interpretation of the qualifications for election contained in the following Articles whenever it is stated in this Constitution that the implementation of any matter requires a person who has the qualification for election, or a person who has not been disqualified from election, then unless the context requires otherwise, it shall be understood that the qualifications concerned are those which enable a person to be elected a Member representing a constituency as provided in subarticle (1) of this Article.

Oath of
Members of
Parliament
Act No.15
of 1984,
Art.13

68. Every Member of Parliament shall be required to take and subscribe before the National Assembly the oath of allegiance before commencing to take part in the business of the National Assembly save that he may take part in the election of Speaker before taking that oath.

Formal
declaration by
Members of

69.-(1) Every Member of Parliament shall be required before the expiration of thirty days since taking oath as Member of Parliament to submit to

Parliament concerning ethics of Leaders

Act No.12 of 1995 Art.11

the Speaker two copies of a formal declaration that he has not lost the qualifications for election in terms of paragraph (d) of subarticle (2) of Article 67.

(2) The formal declaration required to be submitted to the Speaker shall be made on a special form prescribed in accordance with a law enacted by Parliament.

(3) The Speaker shall transmit to the Ethics Commissioner a copy of every formal declaration submitted to him in accordance with the provisions of this Article.

(4) In this Article and in Articles 70 and 84 “the Ethics Commissioner” means the Commissioner appointed to head the Ethics Secretariat referred to in Article 132 of this Constitution.

Members to submit statement of property Act No.12 of 1995 Art.12

70.-(1) Every Member of Parliament shall be required to submit to the Speaker two copies of a formal statement regarding his property and the property of his spouse. The statement shall be made on a special form prescribed by a law enacted by Parliament and shall be submitted from time to time as shall be directed by such law.

(2) The Speaker shall transmit to the Ethics Commissioner, a copy of every formal statement submitted to him in accordance with the provisions of this Article.

Tenure of office of Member of Parliament Act No.15 of 1984 Art.13 Act No.4 of 1992, Art.22 Act No.34 of 1994, Art.14

71.-(1) A Member of Parliament shall cease to be Member of Parliament and shall vacate his seat in the National Assembly upon the occurrence of any of the following matters:

- (a) where anything happens which, had he not been a Member of Parliament, would have disqualified him from election or would make him lose the qualifications for election or would disqualify him from election or appointment in accordance with the provisions of this Constitution;
- (b) where such Member of Parliament is elected President;
- (c) where a Member of Parliament fails to attend three consecutive meetings of the National Assembly without the permission of the Speaker;
- (d) where it is established that he has contravened the provisions of the law concerning the ethics of public leaders;
- (e) where a Member of Parliament ceases to be a member of the party to which he belonged when he was elected or appointed to be a Member of Parliament;
- (f) where a Member of Parliament is elected or appointed Vice-President; or
- (g) in the case of a Member of Parliament who is required to submit a formal statement of property in accordance with the provisions of Article 70, if he fails to make such formal statement in accordance with the provisions of that Article within the period prescribed for that purpose by a law enacted by Parliament,

but where a Member of Parliament does not cease to be a Member of Parliament

on account of any of those matters mentioned and if he does not sooner resign or die, then he shall continue to hold office as Member of Parliament until the next general election.

(2) Parliament may enact a law for the purpose of making provisions enabling a Member of Parliament to appeal according to law, against a decision which confirms that he is a person of unsound mind or against a sentence of death or imprisonment or against conviction for an offence of the type referred to in the provisions of subarticle (5) of Article 67 of this Constitution, and that law may provide that the decision appealed against by the Member of Parliament shall have no effect in law until the expiration of the period prescribed in that law.

Cessation of employment of civil servants on contesting for election
Act No.4 of 1992
Art.23
Act No.12 of 1995
Art.14

72. Where any person holding office in the service of the Government which office is of the type mentioned in Article 67(2)(g) decides-

- (a) to contest for election to the office of President or any other office under this Constitution; or
- (b) to contest for leadership at any level in a political party contrary to the terms of employment, the employment of such person shall be considered to have ceased from the date of his becoming a candidate or of contesting for leadership in the political party.

Terms of service of Members of Parliament
Act No.15 of 1984
Art.13

73. All Members of Parliament of all categories shall hold office in accordance with this Constitution, and shall be paid a salary, allowances and other remuneration in accordance with a law enacted by Parliament.

Electoral Commission

Electoral Commission
Act No.15 of 1984
Art.13
Act No.4 of 1992
Art.24
Act No.7 of 1993
Art.2;
Act No.3 of 2000
Art.14
Act No.1 of 2005
Art.14

74.-(1) There shall be an Electoral Commission of the United Republic which shall consist of the following members to be appointed by the President:

- (a) a Chairman who shall be a Judge of the High Court or a Justice of the Court of Appeal, who shall be a person with qualifications to be an advocate and has held those qualifications for a period of not less than fifteen years;
- (b) a Vice-Chairman who shall be a person who holds, had held or is capable of holding an office of Judge of the High Court or a Justice of the Court of Appeal; and
- (c) other members to be specified by a law enacted by Parliament.

(2) The President shall appoint the Vice-Chairman of the Electoral Commission on the basis of the principle that where the Chairman hails from one part of the Union, the Vice-Chairman shall be a person who hails from the other part of the Union.

(3) The following persons shall not be eligible for appointment as members of the Electoral Commission, that is to say -

- (a) a Minister or Deputy Minister;

- (b) a person holding any kind of office specified by a law enacted by Parliament prohibiting a persons holding such office to be appointed a member of Electoral Commission; and
 - (c) a Member of Parliament, a Councilor or other persons holding the kind of office specified by a law enacted by Parliament in terms of the provisions of paragraph (g) of subarticle (2) of Article 67 of this Constitution; and
 - (d) a leader of any political party.
- (4) Subject to the other provisions of this Article, a member of the Electoral Commission shall cease to be a member whenever any of the following occurs -
- (a) upon the expiration of five years since his appointment; or
 - (b) where anything happens which, had he not been a member of the Commission, would have made him ineligible for appointment to be a member of the Commission.
- (5) The President may remove a member of the Electoral Commission from office only for failing to discharge his functions either due to illness or any other reason or due to misconduct or loss of the qualifications for being a member.
- (6) The responsibilities of the Electoral Commission shall be:
- (a) to supervise and co-ordinate the registration of voters in Presidential and Parliamentary elections in the United Republic;
 - (b) to supervise and co-ordinate the conduct of the Presidential and Parliamentary election;
 - (c) to review the boundaries and demarcate the United Republic into various areas for the purposes of Parliamentary elections;
 - (d) to supervise and co-ordinate the registration of voters and the conduct of the election of Councilors; and
 - (e) to perform any other functions in accordance with a law enacted by Parliament.
- (7) For the better carrying out of its functions, the Electoral Commission shall be an autonomous department, and its chief executive shall be the Director of Elections, who shall be appointed and shall discharge duties in accordance with a law enacted by Parliament.
- (8) Parliament may enact a law providing for the procedure for supervising the election of Members of Parliament representing constituencies.
- (9) The Electoral Commission may discharge its functions notwithstanding that there is a vacancy among its membership or that one of its members is absent, provided that every decision of the Commission must be supported by a majority of all the members of the Commission.
- (10) Parliament may enact a law providing for the procedure of appointing delegates to supervise elections of constituency Members of Parliament and, subject to the provisions of any law or the directions of the Electoral Commission, the powers of the Electoral Commission to supervise the elections may be exercised by such delegates.
- (11) In discharging its functions in accordance with the provisions of this

Constitution, the Electoral Commission shall not be obliged to comply with orders or directions of any person or any government department or the views of any political party.

(12) No court shall have power to inquire into anything done by the Electoral Commission in the discharge of its functions in accordance with the provisions of this Constitution.

(13) In the discharge of its functions in accordance with this Constitution, the Electoral Commission of the United Republic shall, from time to time, consult with the Electoral Commission of Tanzania Zanzibar.

(14) It is hereby prohibited for persons concerned with the conduct of elections to join any political party, save only that each of them shall have the right to vote as provided for under Article 5 of this Constitution.

(15) For the purposes of subarticle (14), the persons concerned with the conduct of elections are:

- (a) the Chairman of the Electoral Commission;
- (b) the Vice-Chairman of the Electoral Commission;
- (c) all the members of the Electoral Commission;
- (d) the Director of Elections together with all other employees of the Electoral Commission; and
- (e) all supervisors of elections in all towns and districts.

Constituencies

Constituencies
Act No.4
of 1992
Art.24

75.-(1) Subject to the other provisions of this Article, the United Republic shall be demarcated into constituencies of such number and in such manner as shall be determined by the Electoral Commission after obtaining the consent of the President.

(2) Subject to any relevant law, the Electoral Commission shall have the power to demarcate the boundaries of constituencies after obtaining the consent of the President.

(3) In demarcating the boundaries of constituencies, the Electoral Commission shall take due account of the availability of members of communication and also the geographical conditions of the area intended for demarcation into constituencies.

(4) Subject to the provisions of this Constitution and any law concerning the demarcation of the country into constituencies, the Electoral Commission may, from time to time and at least after every ten years, review the demarcation of the United Republic into constituencies and may alter the constituencies as a result of that review or as a result of a census conducted in the United Republic.

(5) If after a review of the demarcation of the United Republic into constituencies alterations are made in the constituencies, or the number of the Members of Parliament representing constituencies or in the number of constituencies or the number of Members of Parliament, then the resultant alteration in the number of Members of Parliament representing those constituencies shall take effect when Parliament is dissolved again following the occurrence of the alteration in the number of constituencies or in the number of

Members of Parliament representing constituencies.

(6) Notwithstanding the other provisions of this Article, no court shall have power to inquire into anything done by the Electoral Commission in its discharge of the function of demarcating the United Republic into constituencies.

Election and Appointment of Members of Parliament

Elections in
constituencies
Act No.15
of 1984
Art.13
Act No.3 of
2000 Art.15

76.-(1) After every dissolution of Parliament there shall be held an election of a Member of Parliament in every constituency.

(2) Likewise there shall be held an election of a Member of Parliament in a constituency whenever the seat of any Member of Parliament representing that constituency falls vacant for any reason not connected with the dissolution of Parliament.

(3) Notwithstanding the preceding provisions of this Article, it is hereby declared that where the date for dissolution of Parliament has been proclaimed or is known on account of the events specified in subarticle (3) of Article 90, then no such election shall take place during the whole period of six months immediately preceding the date of the dissolution of Parliament.

Procedure for
election
Members of
Parliament
representing
Constituencies
Act No.4
of 1992
Art.25

77.-(1) Members of Parliament representing constituencies shall be elected by the people in accordance with the provisions of this Constitution and also the provisions of a law enacted by Parliament pursuant to this Constitution to regulate the election of Members of Parliament representing constituencies.

(2) Save where the Electoral Commission in accordance with the provisions of this Constitution or of a law enacted by Parliament in that behalf directs otherwise, there shall be elected only one Member of Parliament in a constituency.

(3) Candidates for election to a constituency shall be required to fulfill the following conditions:

- (a) they shall be proposed, one each, by a political party taking part in the election in that constituency; and
- (b) they shall have submitted their names to the Electoral Commission in accordance with the procedure laid down by a law enacted by Parliament or procedures prescribed by the Electoral Commission in accordance with law.

Procedure for
election of
women
Members of
Parliament
Act No.4
of 1992
Art.26
Act No.3
of 2000

78.-(1) For the purposes of the election of women Members of Parliament mentioned in Article 66(1) (b), political parties which took part in the general election in accordance with the procedure laid down and obtained at least five per centum of the total valid voters for Parliamentary election, shall propose to the Electoral Commission the names of women on the basis of the proportion of votes obtained by each party in the Parliamentary election.

(2) Notwithstanding the provisions of subarticle (1), the following votes shall be counted as valid votes for the unopposed Member of Parliament in the constituent -

Art.16
Act No.1
of 2005
Art.15
G.N.No.133
of 2001

- (a) where a political party has nominated a Presidential candidate, presidential votes cast in the constituency for a Presidential candidate from that political party; or
- (b) where a political party has not nominated a presidential candidate, fifty one percentum of the votes of the total voters registered in the respective constituency.

(3) The names of the persons proposed to the Electoral Commission in accordance with subarticle (1) shall be declared to be the results of the election after the Commission is satisfied that the relevant provisions of the Constitution and of other legislation have been complied with.

(4) The list of names for women candidates submitted to the Electoral Commission by each political party for general election shall be the list to be applied by the Electoral Commission after consultation of the party concerned, for purpose of filling any vacancy of Members of Parliament of this category whenever the vacancy occurs during the life of Parliament.

Procedure for
election of
Members by
House of
Representatives
Act No.15
of 1984
Art.13

79. The House of Representatives shall prescribe the procedures which it shall follow for the purposes of the election of Members of Parliament mentioned in Article 66(1) (c) of this Constitution.

80. [Repealed by Act No.4 of 1992 Article 27].

Procedure for
proposing
women
candidates
Act No.4
of 1992,
Art.29

81. Subject to the other provisions of this Constitution, the Electoral Commission may make provisions specifying the procedure to be followed by the political parties for the purposes of electing and proposing the names of the kind of Members of Parliament provided for under Article 66(1)(b).

82. [Repealed by Act No.4 of 1992 Article 29].

Determination
of the validity
of a person's
membership of
Parliament
Act No.14
of 1979
Art.8
Act No.15
of 1984
Art.13
Act No.14
of 1990
Act No.4
of 1992

83.-(1) Every proceeding for the purposes of determining the question whether –

- (a) the election or appointment of any person to be Member of Parliament was valid or not; or
- (b) a Member of Parliament has ceased to be a Member of Parliament and his seat in the National Assembly is vacant, or not, shall, subject to the provisions of subarticle (2) of this Article, first be instituted and heard in the High Court of the United Republic.

(2) Where the Electoral Commission, in the discharge of its functions in accordance with the provisions of Article 41(3) of this Constitution has declared any Member of Parliament to have been elected President, then no court or any other body shall inquire further into any question concerning the seat of that Member of Parliament being vacant.

Art.30

- (3) Parliament may enact legislation providing for the following matters:
- (a) persons who may institute proceedings in the High Court seeking for determination of any question in accordance with the provisions of this Article;
 - (b) the grounds and times for instituting such proceedings, procedure for instituting proceedings and conditions which have to be fulfilled in respect of every such proceeding; and
 - (c) prescribing the powers of the High Court over such proceedings and specifying the procedure for the hearing of the matter itself.
- (4) There shall be a right of appeal to the Court of Appeal of Tanzania against a decision of the High Court in any matter which was heard in accordance with the provisions of this Article.

PART THREE
PROCEDURE, POWERS AND PRIVILEGES OF PARLIAMENT

Speaker and Deputy Speaker

Speaker and his
functions
Act No.15
of 1984
Art.14
Act No.4
of 1992
Art.31
Act No.12
of 1995
Art.15

84.-(1) There shall be a Speaker of the National Assembly who shall be elected by the Members of Parliament from amongst persons who are Members of Parliament or who are qualified to be Members of Parliament and shall be the Leader of the National Assembly in all other institutions and meetings.

(2) A Minister, a Deputy Minister or a person holding any other office prescribed by a law enacted by Parliament for the purposes of this Article shall not be elected Speaker.

(3) Any person elected Speaker shall be required, before the expiration of fifteen days of his election, to submit to the President a formal declaration that he has not lost the qualifications for election in terms of the provisions of paragraph (d) of subarticle (2) of Article 67. The declaration shall be made in a special form prescribed in accordance with a law enacted by Parliament.

(4) The President shall transmit to the Ethics Commissioner a copy of every formal declaration submitted to him in accordance with the provisions of subarticle (3) of this Article.

(5) The Speaker shall be required to submit to the President two copies of a formal statement regarding his property and that of his spouse. The Speaker shall submit such statement in a special form prescribed for that purpose in accordance with a law enacted by Parliament, and shall submit such statement from time to time as shall be directed by that law.

(6) The provisions of subarticles (2) and (3) of Article 70 shall apply, *mutatis mutandis*, to any statement regarding property submitted by the Speaker in accordance with the provisions of this Article.

(7) The Speaker shall cease to be Speaker and shall vacate his office upon the occurrence of any of the following events:

- (a) where that person was elected from amongst Members of Parliament, he ceases to be a Member of Parliament for any reason

- other than the dissolution of Parliament;
 - (b) if anything happens which, had he not been Speaker, would disqualify such person from election, or make him lose the qualifications for being elected Speaker;
 - (c) when the National Assembly meets for the first time after General Elections held following the dissolution of Parliament, provided that the provisions of this paragraph shall operate subject to the provisions of subarticle (4) of Article 90 of this Constitution;
 - (d) if that person is removed from the office of Speaker by a resolution of the National Assembly supported by not less than two-thirds of all Members of Parliament;
 - (e) if that person fails to submit to the President a formal declaration in accordance with the provisions of subarticle (3) of this Article;
 - (f) if that person is convicted of the offence of perjury contrary to the provisions of the Penal Code concerning any formal declaration submitted in accordance with the provisions of subarticle (3) of this Article;
 - (g) if that person fails to submit to the President a statement regarding his property in accordance with subarticle (5) of this Article before the expiration of the period stipulated for that purpose in accordance with a law enacted by Parliament; or
 - (h) if it is proved that, that person has contravened the provisions of the law concerning the ethics of public leaders.
- (8) No business (other than the election of the Speaker) shall be conducted in the National Assembly while the office of Speaker is vacant.
- (9) Any person not being a Member of Parliament, who is elected Speaker shall be required, before commencing to discharge the functions of his office, to take and subscribe the oath of allegiance before the National Assembly.

Deputy
Speaker
Act No.15
of 1984
Art.14

- 85.**-(1) There shall be a Deputy Speaker of the National Assembly who shall be elected by Members from amongst Members of Parliament.
- (2) A Minister, a Deputy Minister or a person holding any other office prescribed by a law enacted by Parliament for the purpose of this Article, shall not be elected Deputy Speaker.
- (3) Members of Parliament shall elect a Deputy Speaker on the following occasions:
- (a) when the National Assembly meets for the first time following the General Elections or as soon as possible thereafter; and
 - (b) at the first sitting of the National Assembly after the office of Deputy Speaker falls vacant for any reason not connected with the dissolution of Parliament or as soon as possible after that sitting.
- (4) The Deputy Speaker shall cease to be Deputy Speaker and shall vacate the office of Deputy Speaker upon the occurrence of any of the following events:
- (a) if that person ceases to be a Member of Parliament;
 - (b) if anything happens which, had he not been Deputy Speaker, would

- have disqualified him from election or would make him lose the qualifications for being elected Deputy Speaker; or
- (c) if that person is removed from the office of Deputy Speaker by a resolution of the National Assembly.

Procedure for electing Speaker and Deputy Speaker Act No.15 of 1984 Art.14

86.-(1) There shall be held an election of the Speaker at the first sitting of the first meeting of National Assembly, and at any first sitting of the National Assembly immediately after the occurrence of a vacancy in the office of Speaker.

(2) There shall be held an election of the Deputy Speaker at any time during the first meeting of the National Assembly, which time shall be appointed by the National Assembly, and during the first sitting of the National Assembly immediately after the office of Deputy Speaker falls vacant.

(3) The election of a Speaker as well as that of Deputy Speaker shall be by secret ballot and shall be conducted in accordance with the procedure prescribed by the Standing Orders of the National Assembly.

Office of Parliament

Clerk of the National Assembly Act No.15 of 1984 Art.14

87.-(1) There shall be a Clerk of the National Assembly who shall be appointed by the President from amongst persons holding high office in the service of the Union Government.

(2) The Clerk of the National Assembly shall be the Chief Executive in the office of the National Assembly, and shall be responsible for the efficient discharge of the business of Parliament in conformity with the provisions of this Constitution and of the relevant law.

The Secretariat of the National Assembly Act No.15 of 1984 Art.14

88.-(1) There shall be a Secretariat of the National Assembly which shall consist of such number of offices within the service of the Government as the President may direct.

(2) The Secretariat of the National Assembly shall consist of officers of such number and grades as may be determined from time to time by the relevant Service Commission after consultation with the Clerk of the National Assembly.

(3) The Secretariat of the National Assembly, under the leadership of the Clerk of the National Assembly shall discharge all duties and functions prescribed or as may be necessary for the purpose of ensuring the efficient discharge by the National Assembly and Members of Parliament of the functions of Parliament under this Constitution.

Procedure in the National Assembly

Standing Orders of the National

89.-(1) Subject to the provisions of this Constitution, the National Assembly may make Standing Orders for the purpose of prescribing procedure for the conduct of its business.

Assembly
Act No.15
of 1984
Art.14

(2) Standing Orders made pursuant to this Article may prescribe procedure for the supervision of the discharge of the functions of the Secretariat of the National Assembly and also of the discharge of the business of the National Assembly in the National Assembly and those of its committees and sub-committees.

Summoning
and dissolution
of Parliament
Act No.15
of 1984
Art.14;
Act No.20
of 1992
Art.13

90.-(1) After General Elections, the President shall summon a New Parliament to meet before the expiration of seven days following the declaration of the results of the General Elections in all constituencies save in those constituencies where the elections are countermanded and commenced afresh.

(2) The President shall not have power to dissolve National Assembly at any time save only -

- (a) if the life of Parliament has expired in terms of Article 65 of the Constitution or at any time within the last twelve months of the life of Parliament, save only if the Speaker receives a formal notice under Article 46A of this Constitution proposing the formation of a Special Committee of Inquiry with a view to impeaching the President;
- (b) if the National Assembly refuses to approve a budget proposed by the Government;
- (c) if Parliament fails to pass a Bill in terms of the provisions of Article 97(4);
- (d) if the National Assembly declines to pass a motion which is of fundamental importance to Government policies and the President considers that the way out is not to appoint another Prime Minister but to call for a general election; or
- (e) if, having regard to the proportional representation of political parties in the National Assembly, the President considers that it is not longer legitimate for the Government in power to continue in office, and it is not feasible to form a new Government.

(3) Upon the expiration of the life of Parliament, Parliament shall stand dissolved: Save that if the life of Parliament expires at any time when the United Republic is at war, the National Assembly may, from time to time, extend the period mentioned in Article 65 of this Constitution for a period not exceeding twelve months each time; provided that the life of Parliament shall not be extended under the provisions of this subarticle for a period of more than five years.

(4) If an emergency arises or exists which, in the opinion of the President, necessitates the summoning of National Assembly at a time when Parliament stands dissolved, and the majority of results in the general election following the dissolution have not been declared, the President may by Proclamation, summon National Assembly and direct that the Speaker and all the persons who were the Members of Parliament immediately before the dissolution of National Assembly attend such meeting of National Assembly and such persons together with the Speaker shall be deemed to be the Members of the National Assembly for the purposes of that meeting and shall be so deemed until midnight of the day the

majority of the results of the General Elections are declared.

President may address Parliament Act No.15 of 1984 Art.14

91.-(1) The President shall address the National Assembly at its first meeting and inaugurate it.

(2) Subject to the provisions of subarticle (1), the President may, at any time, address the National Assembly or send to the House a communication which shall be read by a Minister.

Meetings of the National Assembly Act No.15 of 1984 Art.14 G.N.No.133 of 2001

92.-(1) The National Assembly shall hold its meetings at the place where it is customary to hold such meetings or at any other place in the United Republic as the President may designate in that behalf.

(2) The first meeting of the National Assembly in the life of Parliament shall commence on the day for which National Assembly is summoned to meet, and every subsequent meeting shall commence on such date as may be specified by the National Assembly or on any day that shall be appointed in accordance with the Standing Orders of the National Assembly.

(3) The President may at any time summon a meeting of the National Assembly.

Presiding at sittings of the National Assembly Act No.15 of 1984 Art.14

93. Every sitting of the National Assembly shall be presided over by any one of the following persons, that is to say -

- (a) the Speaker;
- (b) if the Speaker is absent, the Deputy Speaker; or
- (c) if both the Speaker and the Deputy Speaker are absent, any Member of Parliament who has been elected for that purpose, but a Minister or a Deputy Minister or a person holding any other type of office specified by any law enacted by Parliament for the purpose of this Article shall not be elected under the provisions of this paragraph.

Quorum at the sittings of the National Assembly Act No.15 of 1984 Art.14; Act No.7 Of 1994 Art. 8(i),(k)

94.-(1) The quorum at every sitting of the National Assembly shall be half of all the Members of Parliament.

(2) Except where it is provided otherwise in this Constitution, every question proposed for decision in the National Assembly shall be determined by a majority of the votes of the Members of Parliament present and voting.

(3) The Speaker, Deputy Speaker or any other person presiding over the sitting of the National Assembly shall not have a deliberative vote but shall have a casting vote in the event of an equality of votes.

(4) The Standing Orders of the National Assembly may provide that any Member of Parliament who votes on any matter in which he has a personal interest shall be deemed not to have voted.

Vacant seats in the National Assembly Act No.15 of 1984

95. The National Assembly may conduct business during its sittings notwithstanding any vacant seat in the National Assembly (whether the seat became vacant since or after the first meeting following the General Elections) and if in such business any person who is not entitled takes part or if during that

Art.14 business any person who is not entitled is present, then the participation or presence of that person shall not invalidate the business.

Standing Committees of the National Assembly Act No.15 of 1984 Art.14
96.-(1) The National Assembly may establish various Standing Committees as it may deem appropriate for the better discharge of its functions.

Act No.12 of 1995 Art.16
(2) The Standing Orders of the National Assembly may provide for the composition and functions of the Standing Committees established pursuant to the provisions of this Article.

Legislative Procedure

How to legislate Act No. 15 of 1984 Art.14
97.-(1) Subject to the provisions contained in this Constitution, the Parliament shall exercise its legislative power through the process of debating and passing Bills which eventually shall have to be assented to by the President, and a Bill shall not become law unless it is so passed by the National Assembly and assented to by the President in accordance with the provisions of this Article.

(2) After a Bill is presented to the President for his assent, the President may either assent to the Bill or withhold his assent, and in the event the President withholds his assent to a Bill, he shall return it to the National Assembly together with a statement of his reasons for withholding his assent to the Bill.

(3) After a Bill is returned to the National Assembly pursuant to the provisions of this Article, it shall not be presented again to the President for his assent before the expiration of six months since it was so returned, except if at the last stage in the National Assembly before it is again presented to the President, it is supported by the votes of not less than two-thirds of all the Members of Parliament.

(4) If a Bill is returned to the National Assembly the President, and it is then supported in the National Assembly by not less than two-thirds of all Members of Parliament as provided in subarticle (3) and it is presented a second time to the President for assent within six months of its being so returned, then the President shall be obliged to assent to the Bill within twenty-one days of its being presented to him, otherwise he shall have to dissolve Parliament.

(5) The provisions of this Article or Article 64 of this Constitution shall not prevent Parliament from enacting laws making provisions conferring on any person or department of Government the power to make regulations having the force of law or conferring the force of law on any regulations made by any person, or any department of Government.

Procedure for altering the Constitution and certain laws Act No.15 of 1984
98.-(1) Parliament may enact law for altering any provision of this Constitution in accordance with the following principles:

(a) a Bill for an Act to alter any provisions of this Constitution (other than those relating to paragraph (b) of this subarticle) or any provisions of any law specified in List One of the Second Schedule to this Constitution shall be supported by the votes of not less than

Art.14

two thirds of all the Members of Parliament; and

- (b) a Bill for an Act to alter any provisions of this Constitution or any provisions of any law relating to any of the matters specified in List Two of the Second Schedule to this Constitution shall be passed only if it is supported by the votes of not less than two-thirds of all Members of Parliament from Mainland Tanzania and not less than two-thirds of all Members of Parliament from Tanzania Zanzibar.

(2) For the purpose of construing the provisions of subarticle (1), alteration of provisions of this Constitution or the provisions of a law shall be understood to include modification or correction of those provisions or repeal and replacement of those provisions or the re-enactment or modification of the application of the provisions.

Procedure for
legislation in
financial
matters
Act No.15
of 1984
Art.14

99.-(1) The National Assembly shall not deal with any of the matters to which this Article relates except if the President has proposed that the matter be dealt with by the National Assembly and the proposal has been submitted to the National Assembly by a Minister.

(2) The matters to which this Article relate are the following:

(a) a Bill to enact a law providing for any of the following -

- (i) to levy a tax or to alter taxation otherwise than by reduction;
- (ii) the imposition of any charge upon the Consolidated Fund or any other public fund or the alteration of any such charge otherwise than by reduction;
- (iii) the payment, issue or withdrawal from the Consolidated Fund or any other public fund of any moneys not charged thereon, or any increase in the amount of such payment, issue or withdrawal;
- (iv) the composition or remission of any debt due or payable to the United Republic;

(b) a motion or any amendment of a motion for the purpose of any of the matters referred to in paragraph (a) of this subarticle.

(3) The provisions of this Article shall not apply to a Bill or any amendment to a Bill introduced by or a motion or an amendment to a motion moved by a Minister or a Deputy Minister.

Power and Privileges of Parliament

Freedom and
immunity from
proceedings
Act No.15
of 1984
Art.14

100.-(1) There shall be freedom of opinion, debate and procedure of business in the National Assembly, and that freedom shall not be breached or questioned by any organ in the United Republic or in any court or elsewhere outside the National Assembly.

(2) Subject to this Constitution or to the provisions of any other relevant law, a Member of Parliament shall not be prosecuted and no civil proceedings may be instituted against him in a court in relation to any thing which he has said or done in the National Assembly or has submitted to the National Assembly by

way of a petition, bill, motion or otherwise.

Preservation
and
enforcement of
freedom of
debate and
procedure
Act No.15
of 1984
Art.14

101. Parliament may enact a law making provisions to enable the court and the law to preserve and enforce freedom of opinion, debate and procedure of business in the National Assembly which in terms of Article 100 is guaranteed by this Constitution.

CHAPTER FOUR
THE REVOLUTIONARY GOVERNMENT OF ZANZIBAR,
THE ZANZIBAR REVOLUTIONARY COUNCIL AND THE
HOUSE OF REPRESENTATIVES OF ZANZIBAR

PART I
THE REVOLUTIONARY GOVERNMENT OF ZANZIBAR
AND THE PRESIDENT OF ZANZIBAR

The
Revolutionary
Government of
Zanzibar and
its jurisdiction
Act No. 45
of 1980
Art.55
Act No.15
of 1984
Art.14
Act No.34
of 1994
Art.16

102.-(1) There shall be an Executive for Zanzibar which shall be known as **“the Revolutionary Government of Zanzibar”** which shall have authority in Zanzibar over all matters which are not Union Matters in accordance with the provisions of this Constitution.

(2) Subject to the provisions contained in this and the following Articles in this Chapter of this Constitution, the Revolutionary Government of Zanzibar shall be constituted and shall exercise its authority in accordance with the provisions of this Constitution and the Constitution of Zanzibar, 1984.

Head of the
Revolutionary
Government of
Zanzibar and
his authority
Act No. 15
of 1980
Art.14
Act No.34
of 1994
Art.17

103.-(1) There shall be a Head of the Executive for Zanzibar who shall be the President of Zanzibar and Head of the Revolutionary Government of Zanzibar and also the Chairman of the Zanzibar Revolutionary Council.

(2) The Head of the Revolutionary Government of Zanzibar shall, before assuming office, subscribe the oath before the Chief Justice of Zanzibar to protect and defend the Constitution of the United Republic and any other oath in accordance with the constitution of Zanzibar in connection with the execution of his duties, and then shall assume office and discharge those functions in accordance with the provisions of this Constitution and the Constitution of Zanzibar, 1984.

(3) In addition to his other powers, the Head of the Revolutionary Government of Zanzibar shall have the power to appoint and assign responsibilities to Ministers and Deputy Ministers of the Revolutionary

Government of Zanzibar.

Election of the
Head of the
Revolutionary
Government of
Zanzibar
Act No.1
of 1980
Art.11
Act No.15
of 1984
Art.14
Act No.16
of 1990
Art.2
Act No.20
of 1992
Art.14

104.-(1) The Head of the Revolutionary Government of Zanzibar shall be elected by the people in Tanzania Zanzibar in accordance with the provisions of the Constitution of Zanzibar, 1984, and in accordance with the procedure prescribed by law enacted by the House of Representatives of Zanzibar which relates to the election in general or to the election of the Head of the Revolutionary Government of Zanzibar

(2) Subject to the other provisions of this Constitution, the office of the Head of the Revolutionary Government of Zanzibar shall be vacant, and the election of the Head of the Revolutionary Government of Zanzibar shall be held to fill the vacancy upon the occurrence of any of the following events:

- (a) upon the dissolution of the House of Representatives;
- (b) the resignation of the Head of the Revolutionary Government of Zanzibar without first dissolving the House of representatives;
- (c) the disqualification of the Head of the Revolutionary Government of Zanzibar from holding an elective office;
- (d) the impeachment of the Head of the Revolutionary Government of Zanzibar by the House of Representatives in accordance with the Constitution of Zanzibar, 1984, and his removal from office;
- (e) the certification pursuant to the Constitution of Zanzibar, 1984, that the Head of the Revolutionary Government of Zanzibar is unable to discharge his duties and functions; or
- (f) the death of the Head of the Revolutionary Government of Zanzibar.

PART II

THE ZANZIBAR REVOLUTIONARY COUNCIL

The
Revolutionary
Council and its
functions
Act No.1
of 1980
Art.12
Act No.15
of 1984,
Art.18

105.-(1) There shall be a Zanzibar Revolutionary Council which shall consist of the following members:

- (a) the Chairman of the Revolutionary Council;
- (b) the Chief Minister of the Revolutionary Government of Zanzibar;
- (c) all Ministers of the Revolutionary Government of Zanzibar; and
- (d) other members to be appointed by the Chairman of the Revolutionary Council in accordance with the provisions of the Constitution of Zanzibar, 1984.

(2) Without prejudice to the powers of the Chairman of the Revolutionary Council as Head of the Revolutionary Government of Zanzibar, the Revolutionary Council shall be the principal organ for advising the Head of Revolutionary Government of Zanzibar regarding all matters concerning the exercise of his functions of leadership and supervision over the affairs of the Executive for Zanzibar and also in the discharge of his functions over all affairs of Government concerning all matters which are not Union Matters in accordance with the provisions of this Constitution and those of the Constitution of Zanzibar, 1984.

PART III
THE HOUSE OF REPRESENTATIVES OF ZANZIBAR

The House of Representatives of Zanzibar and its legislative functions
Act No.1 of 1980
Art.93

106.-(1) There shall be a House of Representatives of Zanzibar. The House of Representatives shall comprise two parts: one part shall consist of Members of the House elected or appointed in accordance with the provisions of the Constitution of Zanzibar, 1984, and who shall be referred to as the other part of the other part of the House of Representatives; shall be the Head of the Revolutionary Government of Zanzibar in the exercise of his functions pursuant to the provisions of this Constitution and the provisions of the Constitution of Zanzibar, 1984.

(2) Where pursuant to the provisions of this Constitution, the provisions of the constitution of Zanzibar, 1984, or the provisions of any law enacted and in force in Zanzibar, any matter requires to be decided or done by both parts of the House of Representatives, then that matter shall not be deemed to have been duly decided and done unless it is decided or done by the Members of the House of representatives and also by the Head of the Revolutionary Government of Zanzibar, in accordance with their respective authority in relation to that matter.

(3) Legislative authority in Zanzibar over all matters which are not Union Matters is hereby vested in the House of Representatives of Zanzibar.

Authority of House of Representatives
Act No.15 of 1984
Art.20

107.-(1) The President of Zanzibar as one part of the House of Representatives of Zanzibar shall exercise the authority vested in him by this Constitution and also by the Constitution of Zanzibar, 1984, for that purpose.

(2) The Members of the House of Representatives as the second part of the House of Representatives shall be the principal organ for Tanzania Zanzibar which shall have authority on behalf of the people in Tanzania Zanzibar to oversee and advise the Revolutionary Government of Zanzibar and all its organs in the discharge of their respective responsibilities in accordance with this Constitution and the Constitution of Zanzibar, 1984.

(3) For purposes of discharging its functions, the House of Representatives may -

- (a) put to any Minister of the Revolutionary Government of Zanzibar any question concerning public affairs in Tanzania Zanzibar which are within his responsibility;
- (b) debate on the performance of each Ministry of the Revolutionary Government of Zanzibar during the annual budget session of the House of Representatives;
- (c) deliberate upon and authorize any long or short term plan which is intended to be implemented in Tanzania Zanzibar and enact a law to regulate the implementation of that plan;
- (d) enact legislation where implementation requires legislation; and
- (e) prepare or direct preparation and submission to any political party a report concerning any matter that is under the authority of the Parliament.

CHAPTER FIVE
DISPENSATION OF JUSTICE IN THE UNITED REPUBLIC, THE
HIGH COURT OF THE UNITED REPUBLIC, THE JUDICIAL
SERVICE COMMISSION FOR MAINLAND TANZANIA, THE
HIGH COURT OF ZANZIBAR, THE COURT OF APPEAL OF
THE UNITED REPUBLIC AND SPECIAL CONSTITUTIONAL
COURT OF THE UNITED REPUBLIC

PART I
DISPENSATION OF JUSTICE IN THE UNITED REPUBLIC

Authority of
dispensing
justice
Act No.3
of 2000
Art.17
Act No.1
of 2005
Art.16
G. N. No.150
of 2005

107A.-(1) The Judiciary shall be the authority with final decision in dispensation of justice in the United Republic of Tanzania.

(2) In delivering decisions in matters of civil and criminal nature in accordance with the laws, the court shall observe the following principles, that is to say -

- (a) impartiality to all without due regard to ones social or economic status;
- (b) not to delay dispensation of justice without reasonable ground;
- (c) to award reasonable compensation to victims of wrong doings committed by other persons, and in accordance with the relevant law enacted by the Parliament;
- (d) to promote and enhance dispute resolution among persons involved in the disputes; **and**
- (e) to dispense justice without being tied up with technicalities provisions which may obstruct dispensation of justice.

Independence
of the Judiciary
Act No.3
of 2000
Art.17

107B. In exercising the powers of dispensing justice, all courts shall have freedom and shall be required only to observe the provisions of the Constitution and those of the laws of the land.

PART II
THE HIGH COURT OF THE UNITED REPUBLIC

High Court of
the United
Republic and
its jurisdiction
Act No.14
of 1979
Art.6

108.-(1) There shall be a High Court of the United Republic (to be referred to in short as “the High Court”) the jurisdiction of which shall be as specified in this Constitution or in any other law.

(2) Where this Constitution or any other law does not expressly provide that any specified matter shall first be heard by a court specified for that purpose, then the High Court shall have jurisdiction to hear every matter of such type. Similarly, the High Court shall have jurisdiction to deal with any matter which, according to legal traditions obtaining in Tanzania, is ordinarily dealt with by a High Court provided that:
the provisions of this subarticle shall apply without prejudice to the jurisdiction of the Court of Appeal of Tanzania as provided for in this Constitution or in any other law.

Judges of the High Court and their appointments
Act No.14 of 1979
Art.6
Act No.15 of 1984
Art.22
Act No.14 of 1990
Art.5

109.-(1) There shall be a Principal Judge of the High Court (who in the following provisions of this Constitution shall be referred to as the “Principal Judge”) and other Judges of the High Court who shall be not less than thirty who shall be appointed by the President after consultation with the Judicial Service Commission.

(2) Subject to the provisions of this Constitution or any other law concerning the powers of the Chief Justice who is referred to in Article 118, the Principal Judge shall be the special assistant to the Chief Justice in the administration of the High Court and of all the other courts subordinate to it, and in the discharge of the functions of that office, the Principal Judge shall perform such functions and duties as he may, from time to time, be instructed or directed by the Chief Justice and, for the purposes of this Article, the Principal Judge shall also be known as the Head of the High Court.

(3) In addition to his ordinary powers as a Judge of the High Court, the Principal Judge shall also have power to perform all such duties and functions related to the jurisdiction of the High Court which, in accordance with the provisions of this Constitution or any other law, or the legal traditions applicable, are matters which are required to be performed by the head of the High Court:

Provided that the provisions of this subarticle shall not apply in relation to the discharge of duties or functions which, in terms of the provisions of this Constitution or of any other law or in accordance with legal traditions applicable in Tanzania are expressly stated or are deemed to be the duties or functions required to be performed only by the Chief Justice.

(4) For the avoidance of doubt in relation to the interpretation or application of the provisions of subarticles (2) and (3), of this Article, it is hereby declared that except where this Constitution or any other law provides otherwise, the Chief Justice may, from time to time, give to the Principal Judge directions or instruction concerning the discharge of his duties and functions as head of the High Court. Likewise, the Chief Justice may delegate to the Principal Judge some of his administrative and supervisory powers in relation to the discharge of functions in the High Court and in all other courts subordinate to it, and whenever necessary the Chief Justice may himself discharge directly any of the functions so delegated to the Principal Judge.

(5) The office of Judge of the High Court shall not be abolished while there is a person holding that office.

(6) Subject to the provisions of subarticle (8) of this Article, a person may

only be appointed Judge of the High Court if he has special qualifications as defined in subarticle (7) of this Article, and has held one of those special qualifications for a period of not less than ten years.

(7) For the purposes of construing subarticles (6), (8) and (10) of this Article “special qualifications” means a person who holds a degree in law from a University recognized by the accreditation authority in Tanzania, and

- (a) has been a magistrate;
- (b) has held an office in the public service while possessing qualifications of attorney or has been a private advocate; and
- (c) possess qualifications for enrolment as an advocate and, has possessed those qualifications continuously for a period of not less than ten years.

(8) Where the President is satisfied that a person holding one of the special qualifications has not held that qualification for a period of not less than ten years, but that that person has the ability, knowledge and in every respect is suitable for appointment as Judge of the High Court, and there are reasons which make such person deserve to be so appointed, then the President may dispense with the requirement that such person shall have held the special qualifications for a period of not less than ten years, and may, after consultation with the Judicial Service Commission, appoint that person Judge of the High Court.

(9) In the event that the office of Principal Judge falls vacant or that the Principal Judge is for any reason unable to perform the functions of his office, then, those functions shall be performed by one of the Judges who shall be appointed by the President for that purpose and that Judge so appointed shall perform those functions until a new Principal Judge is appointed and assumes the office of Principal Judge or until the Principal Judge who was unable to perform his functions resumes office.

(10) In the event that the office of any Judge falls vacant or that any Judge is appointed Acting Principal Judge or is for any reason unable to perform the functions of his office, or if the Chief Justice advises the President that the state of business then obtaining in the High Court requires the appointment of an Acting judge, the President may, after consulting the Chief Justice in the usual manner, appoint an Acting Judge from amongst persons holding the special qualifications:

Provided that -

- (a) a person shall not be deemed to be disqualified from appointment in accordance with the provisions of this subarticle for the reason only that he has attained the age specified in subarticle (1) of Article 110 of this Constitution;
- (b) for the purpose of appointing an Acting Judge in accordance with the provisions of this subarticle, the President may dispense with the requirement of holding the special qualifications for a period of ten years for the same reasons as those set out in subarticle (8) of this Article.

(11) Any person appointed Acting Judge pursuant to the provisions of subarticle (10) of this Article shall continue to hold the office of Acting Judge for

any period so specified in his appointment or if no period is specified, until his appointment is revoked by the President, but notwithstanding that his term of office has expired or that his appointment has been revoked, that person may continue to perform functions as Acting Judge until he has completed the preparation and delivery of a decision or until he completes any other business connected with matters which he had started hearing before his term of office expired or before his appointment was revoked.

Tenure of office of Judges of the High Court Act No.14 of 1979 Art.6 Act No.15 of 1984 sArt.22 and 23 Act No.12 of 1995 Art.17 Act No.1 of 2005 Art.18

110.-(1) Every Judge of the High Court shall vacate his office on attaining the age of sixty years, but the provisions of this subarticle shall apply subject to the subsequent provisions of this Article.

(2) Any Judge of the High Court may retire from office in the service of the United Republic at any time on attaining the age of fifty five years, except where the President directs that he should not retire from office, and if the President so directs, then the Judge to whom the directions of the President relate shall not retire from office until the expiry of the period specified by the President for that purpose.

(3) In the event that the President considers it to be in the public interest that a Judge who has attained sixty years of age continue in office, and the Judge agrees in writing to continue in office, then the President may direct that the judge continue in office for any period which may be specified by the President.

(4) Notwithstanding that a Judge has attained the age at which he is required by the provisions of this Article to vacate office, a person who was holding the office of Judge of the High Court may continue to perform the functions of that office after attaining that age until he completes the preparation and delivery of the decision or until he completes any other business in connection with matters which he had started hearing before attaining that age.

Procedures relating to discipline of Judges of the High Court Act No.1 of 2005 Art.19

110A.-(1) The procedure for dealing with discipline of Judges, for reasons other than those specified in subarticle (2) shall be as prescribed under the law to be enacted by the Parliament.

(2) A Judge of the High Court may be removed from office only for inability to perform the functions of his office (either due to illness or to any other reason) or for behaviour inconsistent with the ethics of office of Judge or with the law concerning the ethics of public leaders and he shall not be so removed except in accordance with the provisions of subarticle (4) of this Article.

(3) Where the President considers that the question of the removal of a Judge from office needs to be investigated, then the procedure shall be as follows:

- (a) the President shall, after consultation with the Chief Justice, suspend that Judge from office;
- (b) the President shall appoint a Tribunal which shall consist of a Chairman and not less than two other members. The Chairman and with at least half of other members of the Special Tribunal must be persons who are judges of the High Court or Justices of Appeal in any country within the Commonwealth;
- (c) the Tribunal shall investigate the matter and make a report to the

President, advising on the whole matter, and shall advise him whether or not the Judge concerned should be removed from office in accordance with the provisions of this Article on the grounds of inability to perform his functions due to illness or any other reason or on grounds of misbehaviour.

(4) If the Tribunal appointed in accordance with the provisions of subarticle (3) advises the President that the Judge the subject of investigation by the Special Tribunal be removed from office on grounds of inability to perform functions due to illness or any other reason or on grounds of misbehaviour, then the President shall remove the Judge from office and the employment of that Judge shall cease.

(5) If the question of removing a Judge from office has been referred to a Tribunal for investigation pursuant to the provisions of subarticle (3) of this Article, the President may suspend the Judge concerned from duty, and the President may at any time rescind the decision to suspend such Judge, and in any case such decision shall lapse if the Tribunal advises the President that the Judge be not removed from office.

(6) The provisions of this Article shall be without prejudice to the provisions of subarticle (11) of Article 109 of this Constitution.

Judges' oath of office
Act No.14 of 1979
Art.6
Act No.15 of 1984,
Art.22

111. A Judge of the High Court shall not assume the functions of his office until he has first taken and subscribed the oath of allegiance and also such other oath concerning the discharge of his duties as may be prescribed in accordance with the law enacted by the Parliament.

PART III THE JUDICIAL SERVICE COMMISSION

Judicial Service Commission
Act No.14 of 1990
Art.7
Act No.15 of 1984
Art.22
Act No.14 of 1990
Art.6
Act No.3 of 2000
Art.17
Act No.1 of 2005
Art.20

112.-(1) There shall be an Appointments Advisory Commission for Judges and Magistrates in Mainland Tanzania which in this Constitution shall be known as the "Judicial Service Commission".

(2) Members of the Commission shall be -

(a) the Chief Justice who shall be the Chairman;

(b) the Attorney General;

(c) a Justice of Appeal of Tanzania who shall be appointed in that behalf by the President after consultation with the Chief Justice;

(d) the Principal Judge; and

(e) two members who shall be appointed by the President.

(3) A person shall not qualify to be appointed member of the Commission under the provisions of paragraph (e) of subarticle (2) of this Article, if he is a Member of Parliament or the holder of any other office prescribed in that behalf by a law enacted by Parliament.

(4) In discharging its functions, the Commission may delegate its duties to various Committees to be established in accordance with law enacted by

Parliament.

Powers and functions of the Commission
Act No.1 of 2005
Art.20
Act No.14 of 1979
Art.7;
Act No.15
Art.22 and 24;
Act No.34 of 2005
Art.20

113.-(1) The functions of the Commission shall be –

- (a) to advise the President regarding appointments of the Judges of the High Court;
- (b) to advise the President on matters relating to discipline of Judges;
- (c) to advise the President in relation to salaries and remuneration for Judges;
- (d) to advise the President in respect of appointment and discipline for Registrar of the Court of Appeal and the Registrar of the High Court;
- (e) to appoint magistrates and control their discipline; and
- (f) to establish various committees for purposes of implementation of its functions.

(2) The powers of appointment, control of discipline and removal of Judges from office shall vest in the President in accordance with the provisions of this Constitution.

(3) Powers of appointments, confirmation, disciplinary and removal of Registrars of the Court of Appeal and the High Court shall vest in the President.

(4) Powers of appointments, confirmation, disciplinary and removal of magistrates of courts in Mainland Tanzania shall vest in the Commission mentioned in Article 112.

(5) The Parliament may enact a law which shall make provisions relating to implementation of the functions by the Commission.

Membership in political parties
Act No.34 of 1994
Art.18
Act No.1 of 2005
Art.20

113A. It is hereby prohibited for a Justice of Appeal, a Judge of the High Court, a Registrar of any grade or a magistrate of any grade to join any political party save only that he shall have the right to vote which is specified in Article 5 of this Constitution.

PART IV THE HIGH COURT OF ZANZIBAR

The High Court of Zanzibar
Act No.15 of 1984
Art.22

114. For the purposes of construing the provisions of this Chapter of this Constitution, it is hereby declared that the provisions contained in this Chapter do not prevent the continuance or establishment, in accordance with the law applicable in Zanzibar, of the High Court of Zanzibar or courts subordinate to it.

Jurisdiction of the High Court of Zanzibar

115.-(1) Subject to Articles 83 and 116 of this Constitution, the jurisdiction of the High Court of Zanzibar shall be as specified in the laws applicable in Zanzibar.

Act No.15
of 1984
Art.22 and
Art.25

(2) Subject to the provisions of this Constitution or of any other law enacted by Parliament, where any law enacted by Parliament and which is applicable in Mainland Tanzania and also in Tanzania Zanzibar vests any power in the High Court, then the High Court of Zanzibar may exercise that power concurrently with the High Court of the United Republic.

PART V THE COURT OF APPEAL OF THE UNITED REPUBLIC

Interpretation
Act No.15
of 1984
Art.25
and 26
Act No.1
of 2005
Art.21

116.-(1) Subject to the provisions of subarticle (2), the Chief Justice shall have no power over any matter concerning the structure and administration of the day-to-day business of the courts established in accordance with the Constitution of Zanzibar, 1984, or any law of Tanzania Zanzibar.

(2) The Chief Justice shall, from time to time, consult with the Chief Justice of Zanzibar concerning the administration of the business of the Court of Appeal in general, and also concerning the appointment of Justices of Appeal.

Court of
Appeal of the
United
Republic and
its jurisdiction
Act No.14
of 1979
Art.8
Act No.15
of 1984
Art.27

117.-(1) There shall be a Court of Appeal of the United Republic (to be referred to in short as “the Court of Appeal”) which shall have the jurisdiction of the Court of Appeal as provided in this Constitution or any other law.

(2) The Court of Appeal shall not have any jurisdiction in arbitration of any matter which is to be dealt with in accordance with the provisions of Article 126 of this Constitution concerning a dispute between the Government of the United Republic and the Revolutionary Government of Zanzibar.

(3) The functions of the Court of Appeal shall be to hear and determine every appeal brought before it arising from the judgment or other decision of the High Court or of a magistrate with extended jurisdiction.

(4) A law enacted in accordance with the provisions of this Constitution by Parliament or by the House of Representatives of Zanzibar may make provisions stipulating procedure for lodging appeals in the Court of Appeal, the time and grounds for lodging the appeals and the manner in which such appeals shall be dealt with.

Chief Justice
and Justices of
Appeal and
their
appointments
Act No.14
of 1979
Art.8
Act No.15
of 1984
Act No.7
of 1994
Ar.8(1), (k)
Art.28
Act No.1
of 2005

118.-(1) There shall be a Chief Justice of the Court of Appeal (who in the subsequent Articles of this Constitution shall be referred to in short as “the Chief Justice”) and not less than four other Justices of Appeal; save that a full bench of the Court of Appeal shall consist of not less than five Justices of Appeal.

(2) The Chief Justice shall be appointed by the President from amongst persons who possess qualifications to be appointed as a Justice of Appeal and shall be the Head of the Court of Appeal and of the Judiciary as defined in Article 116 of this Constitution and shall hold the office of a Chief Justice until he attains the retirement age of the Justice of Appeal, except if -

- (a) he resigns;
- (b) his office becomes vacant on grounds of illness or death; or
- (c) he is removed from the post of the Chief Justice by President.

(3) The other Justices of Appeal shall be appointed by the President after

Art.22

consultation with the Chief Justice, from amongst persons who qualify to be appointed Judges of the High Court of the United Republic as provided for in Article 109 of this Constitution, or from amongst persons who qualify to be appointed Judges of the High Court of Zanzibar in accordance with the laws applicable in Zanzibar and have possessed such qualifications for a period of not less than fifteen years.

(4) Whenever -

(a) the office of Chief Justice is vacant,

(b) the Chief Justice is absent from Tanzania; or

(c) the Chief Justice, for any reason, fails to discharge his duties,

and if, in the duration of any of these three events the President considers it appropriate to appoint an Acting Chief Justice, then the President may appoint an Acting Chief Justice from among Justices of Appeal.

(5) The Acting Justice of Appeal shall perform the duties of the Chief Justice until another Chief Justice is appointed or until the Chief Justice who was absent from Tanzania or was unable to discharge his duties resumes duty.

(6) In the event that an office of Justice of Appeal is vacant or that any Justice of Appeal is appointed Acting Chief Justice or if the Justice of Appeal is for any reason unable to perform the functions of his office, or if the Chief Justice advises the President that the State of business then obtaining in the Court of Appeal requires the appointment of an Acting Justice of Appeal, then the President may, after consultation with the Chief Justice, appoint an Acting Justice of Appeal from amongst persons holding qualifications for appointment as Justice of Appeal in accordance with the provisions of subarticle (4) of this Article.

(7) Any person appointed Acting Justice of Appeal shall continue to hold the office of Acting Justice of Appeal for any period specified at the time of his appointment, until his appointment is revoked by the President, but not withstanding that the period of appointment has expired or that the appointment has been revoked, such person may continue to work as Acting Justice of Appeal for as long as may be necessary to enable him to prepare and deliver judgment or to do any other thing in relation to appeals or any other proceedings which were commenced before him prior to the expiration of such period or the revocation of his appointment.

(8) For the avoidance of doubt over the construction of the provisions of subarticle (1) of Article 119 of this Constitution, it is hereby declared that a person appointed an Acting Justice of Appeal shall have full power of a Justice of Appeal and shall discharge all duties of Justices of Appeal, and that the quorum of Justice of Appeal mentioned in Article 122 of this Constitution shall not be invalid on ground only that one or more than one Justice of Appeal at any sitting is an Acting Justice of Appeal.

(9) The office of Justice of Appeal shall not be abolished while there is a person holding the office of the Justice of Appeal.

Jurisdiction of
Justice of
Appeal
Act No.14

119. No Justice of Appeal shall have jurisdiction to hear any matter in the High Court or in any magistrates' court of any grade:

Provided that where a Judge of the High Court is appointed Justice of

of 1979
Art.8
and Act No.15
of 1984
Art.29

Appeal he may, notwithstanding such appointment, discharge his functions in the High Court until he completes the preparation and delivery of the decision or until he completes any other business in connection with matters which he had started hearing before his appointment as a Justice of Appeal, and for that purpose it shall be lawful for him to deliver judgment or any other decision concerned in the exercise of the jurisdiction he had before he was appointed Justice of Appeal; provided that where ultimately that judgment or decision is challenged by way of appeal to the Court of Appeal, then in such circumstances that Justice of Appeal shall not have jurisdiction to hear that appeal.

Tenure of
office of
Justices of
Appeal
Act No.14
of 1979
Art.8
Act No.15
of 1984
Art.30
Act No.1
of 2005
Art.23

120.-(1) Every Justice of Appeal shall vacate his office upon attaining the age of sixty-five, but the provisions of this subarticle shall apply subject to the subsequent provisions of this Article.

(2) Any Justice of Appeal may vacate office in the service of the United Republic at any time on attaining the age of sixty five years except where the President directs that he should not vacate office, and if the President so directs, then the Justice to whom the directions of the President relate shall not vacate office until the expiry of the period specified by the President for that purpose.

(3) In the event that the President considers it to be in the public interest that a Justice of Appeal who has attained sixty-five years of age continue in office, and the Justice of Appeal agrees in writing to continue in office, then the President may direct that the Justice of Appeal continue in office for any period which may be specified by the President.

(4) Notwithstanding that a Justice of Appeal has attained the age at which he is required by the provisions of this Article to vacate his office, a person who was holding the office of Justice of Appeal may continue to perform the functions of that office after attaining that age until he completes the preparation and delivery of decision or until he completes any other business in connection with matters which he had started hearing before attaining that age.

Procedures
relating to
discipline of
Justices of
Appeal
Act No.1
of 2005
Art.24

120A.-(1) The procedure for dealing with discipline of Justices of Appeal for offences other than those specified under subarticle (2), shall be as prescribed under the law to be enacted by the Parliament.

(2) A Justice of Appeal may be removed from office of a Justice of Appeal for reason of inability to perform the functions of his office (either due to illness or to any other reason) or for misbehaviour and shall not be removed from office except in accordance with procedural provisions similar to those prescribed for removal from office of the Judge of the High Court as stipulated in subarticle (2) and (3) of Article 110A of this Constitution, and for that purpose the provisions of subarticle (4) of Article 110A shall apply to the Justice of Appeal in the same manner as applied to the Judge of the High Court.

(3) The provisions of this Article shall apply without prejudice to the provisions of subarticle (5) of Article 118 of this Constitution.

Oath of office
of Justices of
Appeal
Act No.14
of 1979
Art.8
Act No.15
of 1984
Art.31

121. A Justice of Appeal shall not assume office unless he has taken and subscribed the oath of allegiance and such other oath as may be prescribed by legislation enacted by Parliament.

Quorum at
sittings of the
Court of
Appeal
Act No.14
of 1979
Art.8
Act No.15
of 1984
Art.32
Act No.7
of 1994
Ar.8(1), (k)

122.-(1) The quorum at every sitting of the Court of Appeal shall not be less than three Justices of Appeal.

(2) In every appeal a matter which requires the decision by the Court of Appeal shall be decided on the basis of the majority opinion of the Justices of Appeal hearing the appeal.

Jurisdiction of
a single Justice
of Appeal
Act No.14
of 1979
Art.8
Act No.15
of 1984
Art.33

123. A single Justice of Appeal may exercise any power vested in the Court of Appeal not involving the determination of an appeals; except that -

- (a) in criminal matters, where a Justice of Appeal on an application for the exercise of those powers makes a decision which the applicant is dissatisfied with, then the applicant shall be entitled to require to have his application determined by the full Court; and
- (b) in civil matters, the Court of Appeal may nullify or alter an order, direction or decision of any other kind made by a single Justice of Appeal in accordance with the provisions of this Article.

PART VI PROCEDURE FOR SERVICE OF NOTICES AND EXECUTION OF ORDERS ISSUED BY THE COURTS

Execution of
court orders in
the whole of
Tanzania

Act No.15
of 1984
Art.34
Act No.3
of 2000 Arti.17

124.-(1) The criminal and civil process, including warrants of arrest issued by the Courts in Mainland Tanzania and in Tanzania Zanzibar may be served and may be executed in any place in Tanzania subject to the following provisions -

- (a) where the court issues process to be served or executed in a place where it has no jurisdiction, such process shall be sent to that place and the service or execution shall be effected in accordance with the procedure obtaining for service or execution of process issued by the court having jurisdiction in that area; and

(b) where the law applicable in the place where the process is sent requires that a process issued by a court which has no jurisdiction be authenticated first by the court having local jurisdiction, then every process issued by the court elsewhere has to be authenticated first in accordance with the law before service or execution of such process.

(2) Where a person is arrested anywhere in Tanzania in accordance with an arrest warrant issued by a court having no jurisdiction in the area of arrest, then the person so arrested shall be deemed to be in lawful custody and be brought before the court which issued the arrest warrant, but the provisions contained in this subarticle shall apply without prejudice to the provisions of the law applicable in the place of the arrest.

(3) The provisions contained in this Article shall not prevent the enactment of a law providing for the procedure of sending process outside Tanzania issued by the courts in Mainland Tanzania or Tanzania Zanzibar.

PART VII THE SPECIAL CONSTITUTIONAL COURT OF THE UNITED REPUBLIC

Special
Constitutional
Court
Act No.15
of 1984
Art.35
Act No.3
of 2000
Art.17

125. There is hereby established the Special Constitutional Court of the United Republic whose jurisdiction, constitution and procedure shall be as stipulated in the provisions of Articles 126 and 128 of this Constitution.

Jurisdiction of
the Special
Constitutional
Court
Act No.14
of 1979
Art.9
Act No.15
of 1984
Art.36

126.-(1) The sole function of the Special Constitutional Court of the United Republic is to hear and give a conciliatory decision over a matter referred to it concerning the interpretation of this Constitution where such interpretation or its application is in dispute between the Government of the United Republic and the Revolutionary Government of Zanzibar.

(2) In the performance of its functions in accordance with the provisions of this Article, the Special Constitutional Court shall not have power to inquire into or to alter the decision of the High Court or the decision of the Court of Appeal which has been given in accordance with the provisions of Article 83 of this Constitution or the decision of the Court of Appeal which has been given in accordance with Article 117 of this Constitution.

(3) Every conciliatory decision given by the Special Constitutional Court pursuant to this Article shall be final; there shall be no right of appeal to any forum.

Composition of
the Special
Constitutional
Court

127.-(1) The Special Constitutional Court shall consist of members of whom one half shall be appointed by the Government of the United Republic and the other half shall be appointed by the Revolutionary Government of Zanzibar.

Act No.14
Of 1979
Art.10
Act No.15
of 1984
Art.37

(2) A person may be appointed a member of the Special Constitutional Court only if he holds or has previously held the office of Justice of Appeal or of Judge of the High Court of the United Republic of Tanzania or of the High Court of Zanzibar, or he is a person who has the ability and experience which qualify him to be appointed to the office of Judge or Acting Judge under the law for the time being in force, in Mainland Tanzania or in Tanzania Zanzibar, as the case may be.

(3) A person may be appointed a member of the Special Constitutional Court either for purposes of determining one or two or more disputes should they arise. A member shall continue to execute his duties as a member of the Special Constitutional Court until the determination of the dispute in relation to which he is appointed or his appointment is revoked or until he fails to perform his duties as a member due to illness or any other reason.

Procedure at
sittings of the
Special
Constitutional
Court
Act No.15
of 1984
Art.37
Act No.7
of 1994
Art.8(1)(k)

128.-(1) The Special Constitutional Court shall hold its sittings only when there is a dispute to be heard, and shall sit in any place to be decided upon in accordance with the procedure applicable for the purposes of hearing disputes submitted to the Special Constitutional Court.

(2) The quorum for every sitting of the Special Constitutional Court shall be all its members, and where any member is absent or the seat of any member is vacant, then the Government which had appointed that member who is absent or whose seat is vacant shall appoint another member to replace him. A temporary member appointed in accordance with this subarticle shall continue to hold office in the Special Constitutional Court until the substantive member resumes duty or until a person is appointed to fill the vacancy or until the dispute is determined, whichever of these events occurs earlier.

(3) Every matter requiring a decision of the Special Constitutional Court shall be determined on the basis of the opinion of two-thirds of the members appointed from Mainland Tanzania and two-thirds of the members appointed from Tanzania Zanzibar.

(4) Parliament may enact legislation providing for the election of the Chairman of the Special Constitutional Court, the procedure for the submission of disputes to the Court, the procedure for the hearing of disputes and the procedure for the transmission of the decisions of the Court to the Governments:

Provided that where any matter is referred to the Special Constitutional Court before the enactment of the law referred to in this subarticle, the matter will be heard and decided in accordance with the procedures to be decided upon by the Court itself before hearing the matter, or if members of the Court fail to agree on such procedure, then the matter shall be heard and decided in accordance with the procedure to be decided upon by the Government of the United Republic in collaboration with the Revolution Government of Zanzibar.

CHAPTER SIX
THE COMMISSION FOR HUMAN RIGHTS AND GOOD GOVERNANCE
AND THE PUBLIC LEADERS ETHICS SECRETARIAT

PART I
THE COMMISSION FOR HUMAN RIGHTS AND GOOD GOVERNANCE

Commission
for Human
Rights and
Good
Governance
Act No.3 of
2000 Art.18

129.-(1) There shall be a Commission to be known as the Commission for Human Rights and Good Governance whose functions shall be as prescribed in Article 130 of this Constitution.

(2) The Commission for Human Rights and Good Governance shall consist of the following Commissioners –

- (a) the Chairman, who shall be a person who possess qualifications for appointment as a Judge;
- (b) the Vice Chairman, who shall be appointed on the basis of principle if the Chairman hails from one part of the United Republic, that other person shall hail from the other part of the United Republic;
- (c) other Commissioners not exceeding five who shall be appointed from amongst persons who possess skills, experience and wide knowledge in matters relating to human rights, law, administration, political or social affairs; and
- (d) Assistant Commissioners.

(3) All Commissioners and the Assistant Commissioners shall be appointed by the President after consultation with the Nomination Committee.

(4) There shall be a Nomination Committee for purposes of this Article which shall consist of the following members -

- (a) the Chief Justice of the Court of Appeal;
- (b) the Speaker of the National Assembly;
- (c) the Chief Justice of Zanzibar;
- (d) the Speaker of the House of Representatives; and
- (e) the Deputy Attorney General, who shall be Secretary of this Committee.

(5) A Chairman, Vice Chairman and all other Commissioners, shall each hold office for a period of three years and may be re-appointed for another only one term of three years.

(6) For purposes of protection of Commissioners from conflict of interests, any person who is appointed as Commissioner of the Commission shall immediately abandon any office held by him in any political party or any other office which shall be mentioned on that behalf by a law enacted by the Parliament.

(7) A Commissioner or Assistant Commissioner may only be removed from office for reasons of failure to discharge his duties or due to illness or any other reason, or for reason of his misconduct that affects code of conduct for Commissioner.

(8) The Commission may discharge its duties notwithstanding that there is vacant office among the seats of Commissioners or that one of the members is

absent.

Functions
of the
Commission
and the
performance
procedures
Act No.3
of 2000
Art.17
G.N.No.133
of 2001

130.-(1) Commission for Human Rights and Good Governance shall discharge the following functions –

- (a) to sensitise countrywide about preservation of human rights and duties to the public in accordance with the Constitution and the laws of the land;
- (b) to receive complaints in relation to violation of human rights in general;
- (c) to conduct inquiry on matters relating to infringement of human rights and violation of principles of good governance;
- (d) to conduct research, to impart or disseminate to the public countrywide education in respect of human rights and good governance;
- (e) if necessary, to institute proceedings in court in order to prevent violation of human rights or to restore a right that was caused by that infringement of human rights, or violation of principles of good governance;
- (f) inquire into the conduct of any person concerned and any institution concerned in relation to the ordinary performance of his duties or functions or abuse of the authority of his office; and
- (g) to advise the Government and other public Institutions and private sector in respect of human rights and good governance;
- (h) to take necessary action in order to promote and enhance conciliation and reconciliation among persons and various institutions appearing or being brought before the Commission.

(2) The Commission shall be an autonomous department, and without prejudice to other provisions of this Article, in exercising its powers in accordance with this Constitution, the Commission shall not be bound to comply with directive or orders of any person or any department of government or any opinion of any political party or of any public or private sector institution.

(3) The provisions of subarticle (2) shall not be construed as restricting the President from giving directive or orders to the Commission, nor are they conferring a right to the Commission of not complying with directions or orders, if the President is satisfied that in respect of any matter or any state of affair, public interest so requires.

(4) The Commission shall conduct inquiry in accordance with the provisions of this Article and of any law enacted in that behalf by the Parliament, and shall inquire into the conduct of any person concerned or of any institution concerned whenever the President directs to conduct inquiry; likewise, except as the President directs the Commission not to conduct investigation, the Commission may conduct investigation whenever it deems necessary to inquire into the conduct of any person concerned, or any institution concerned with the provisions of this Article who is suspected or which is suspected to have abused the authority of his office, misused the authority of his office or the functions of such institution or for violation of human rights and principles of good

governance.

(5) The Commission shall not have powers, either pursuant to this Article or any provisions of any law enacted by the Parliament for purposes of this Chapter of this Constitution to inquire into decision of any Judge, Magistrate or of the Court if such decision was made in the course of exercise of the powers of his office; likewise, the Commission shall not have a power to inquire into any decision made by any Tribunal established in accordance with a law if that decision was made in the discharge of its functions.

(6) The provisions of this Article shall apply to persons employed in the service of the Government of the United Republic and those of the Revolutionary Government of Zanzibar, employees and leaders of the political parties who deal with public affairs, members and employees of all Commissions of the Government of the United Republic and the Revolutionary Government of Zanzibar, parastatal organizations and other public or private organs, companies, community, associations, trustees or any other schemes, as prescribed by the law enacted by the Parliament; but these provisions shall not apply to the President or Leader of the Revolutionary Government of Zanzibar, except only in accordance with the provisions of Article 46 of this Constitution or Article 36 of the Constitution of Zanzibar, 1984.

Powers of the Commission and procedures for its duties Act No.3 of 2000 Art.18

131.-(1) Without prejudice to other provisions of this Article, the Parliament may enact a law pursuant to the provisions of this Chapter of this Constitution for purposes of prescribing provisions in respect of authority of the Commission, procedures for conducting its business and legal immunities for Commissioners and employees of the Commission which shall enable them to discharge their duties without legal constraints.

(2) The Commission shall not inquire the following matters, for purposes of discharging its functions, that is to say -

- (a) any matter which is before a Court or any Tribunal;
- (b) any matter concerning relationship or cooperation between the Government and a foreign Government of any country or international organization;
- (c) any matter concerning powers of the President to award remission; or
- (d) any other matter that is mentioned in any law.

(3) In any financial year, the Commission shall prepare and submit to the Minister responsible for human rights a report in respect of -

- (a) activities of the Commission in the preceding year; and
- (b) implementation of preservation of human rights in the United Republic,

and, the Minister shall table before the National Assembly each report submitted to him as soon as practicable after receipt.

(4) The provisions of subarticle (3) shall not be construed as restricting the Commission from submitting any other report to any person or any other authority.

PART II
PUBLIC LEADERS' ETHICS SECRETARIAT

Public Leaders'
Ethics
Secretariat
Act No.1
of 1980
Art.15
Act No.15
of 1984
Art.39
Act No.4
of 1992
Art.35
Act No.12
of 1995
Art.18

132.-(1) There is hereby established a Public Leaders' Ethics Secretariat which shall have power to inquire into the behaviour and conduct of any public leader for the purpose of ensuring that the provisions of the law concerning the ethics of public leaders are duly complied with.

(2) For the purposes of this Article, the meaning of "public leader" and "code of ethics for public leaders" shall be construed in accordance with the provisions of the law concerning the ethics of public leaders or the provisions of any other law enacted by Parliament in so far as such provisions relate to the question of leadership and its interpretation.

(3) The Public Leader's Ethics Secretariat shall consist of the Ethics Commissioner and such other employees whose number shall be as specified by a law enacted by Parliament.

(4) Parliament shall enact a law stipulating basic rules of ethics for public leaders which shall be complied with by all persons holding public office which shall be specified by such law.

(5) Basic rules of ethics for public leaders shall -

- (a) spell out public offices the holders of which shall be subject thereto;
- (b) require persons holding certain public offices to make a formal declaration from time to time concerning their income, assets and liabilities;
- (c) prohibit conduct and behaviour which tend to portray that a leader is dishonest, practices favouritism or lacks integrity, or which tends to promote or encourage corrupt practices in public affairs or jeopardizes public interest or welfare;
- (d) prescribe penalties which may be imposed for breaches of the code of ethics;
- (e) provide for procedure, powers and practice to be applied in order to ensure compliance with the code of ethics; and
- (f) prescribe any other provisions as are appropriate or necessary for the purpose of promoting and maintaining honesty, transparency, impartiality and integrity in the conduct of public affairs and for the protection of public funds and any other public property.

(6) Parliament may, by law, provide for the dismissal or removal of a person from office for breaches of the code of ethics regardless of whether the office is elective or appointive.

CHAPTER SEVEN
PROVISIONS REGARDING THE FINANCES OF
THE UNITED REPUBLIC

PART I
CONTRIBUTION AND ALLOCATION OF THE REVENUE
OF THE UNITED REPUBLIC

Joint Finance
Account
Act No.15
of 1984
Art.42
G.N.No.133
of 2001

133. The Government of the United Republic shall maintain a special account to be known as “the Joint Finance Account”, and which shall form part of the Consolidated Fund of the United Republic into which shall be paid all the moneys contributed by the two Governments in such proportions as shall be determined by the Joint Finance Commission in accordance with a law enacted by Parliament for the purposes of the business of the United Republic in relation to Union Matters.

Joint Finance
Commission
Act No.15
of 1984
Art.42

134.-(1) There is hereby established a Joint Finance Commission consisting of not more than seven members who shall be appointed by the President in accordance with this Article and the provisions of a law enacted by Parliament.

(2) The functions of the Commission shall be -

- (a) to analyze the revenue and expenditure arising from, or relating to the management of affairs concerning Union Matters, and to make recommendations to the two Governments concerning the contribution by, and the allocation to each of the Governments;
- (b) to keep under constant scrutiny the fiscal system of the United Republic and also the relations between the two Governments in relation to financial matters; and
- (c) to discharge other functions which the President shall assign to the Commission or as the President may direct, and in accordance with a law enacted by Parliament.

PART II
THE CONSOLIDATED FUND AND THE FINANCES
OF THE UNITED REPUBLIC

Consolidated
Fund of the
Government of
the United
Republic
Act No.15
of 1984
Art.43

135.-(1) All revenue derived from various sources for the use of the Government of the United Republic, except for the type of revenue specified in subarticle (2) of this Article, shall be paid into one special fund to be known as the Consolidated Fund of the Government of the United Republic.

(2) The revenue which shall not be paid into the Consolidated Fund of the Government of the United Republic is that which has been specified by law to be used for a specified purpose or to be paid into another fund for special use.

Conditions for withdrawal of moneys from Consolidated Fund Act No.15 of 1984 Art.43

136.-(1) Moneys shall not be paid out of the Consolidated Fund of the Government of the United Republic for expenditure save in accordance with the following terms:

- (a) such money should be for the purpose of expenditure which has been authorized to be charged upon the Consolidated Fund of the Government of the United Republic by this Constitution or by any other law; and
- (b) such money is for expenditure which has been authorized either by Appropriation Act enacted by Parliament for that purpose or a law enacted by Parliament in accordance with the provisions of Article 140 of this Constitution.

(2) Moneys in any special fund of the Government other than the Consolidated Fund of the Government of the United Republic shall not be paid out for expenditure unless and until such expenditure has been authorized by law.

(3) Moneys in the Consolidated Fund of the Government of the United Republic shall not be paid out of that Fund for the purpose of expenditure unless and until such expenditure has been approved by the Controller and Auditor-General, and also on condition that such money shall have been paid out in accordance with a procedure prescribed for that purpose pursuant to a law enacted by Parliament.

Procedure for authorization of expenditure of moneys from the Consolidated Fund Act No.15 of 1984 Art.43

137.-(1) The President shall give directives to persons concerned to prepare and submit to the National Assembly in each Government financial year estimates of the revenue and expenditure of the Government of the United Republic for the next financial year.

(2) After the National Assembly has approved the estimates of expenditure (apart from the expenditure charged on the Consolidated Fund by this Constitution or by any other law) a Bill to be known as an Appropriation Bill shall be introduced into the National Assembly for the purpose of authorizing the issue from the Consolidated Fund of the sums necessary to meet the expenditure for the various activities of the Government involved in those estimates.

(3) Where in any financial year it is found that -

- (a) the amount of money appropriated by the Appropriation Act for a certain purpose is insufficient or it has been necessary to incur expenditure in respect of an activity for which no amount has been appropriated under the Act; or
- (b) money has been expended for a certain purpose in excess of the amount appropriated for it by the Appropriation Act or that money has been expended for a purpose for which no amount was appropriated under the Act,

there shall be presented before the National Assembly a supplementary estimate or, as the case may be, a statement of excess, and after the National Assembly has approved the supplementary estimate or the statement of excess, there shall be introduced into the National Assembly a supplementary Appropriation Bill for the purpose of authorizing the issue of funds from the Consolidated Fund of the Government of the United Republic, and such moneys shall be used to meet the

cost of the activities involved in the supplementary estimates or statement of excess.

Conditions of
taxation
Act No.15
of 1984
Art.43

138.-(1) No tax of any kind shall be imposed save in accordance with a law enacted by Parliament or pursuant to a procedure lawfully prescribed and having the force of law by virtue of a law enacted by Parliament.

(2) The provisions contained in subarticle (1) of this Act shall not preclude the House of Representatives of Zanzibar from exercising its powers to impose tax of any kind in accordance with the authority of that House.

Procedure for
authorization
of expenditure
in advance of
appropriation
Act
Act No.15
of 1984
Art.43

139.-(1) Parliament may enact a law providing for the authorization of expenditure of moneys from the Consolidated Fund of the Government of the United Republic in accordance with a procedure prescribed in sub-article (2) of this Article.

(2) Where the financial year of the Government has begun and the Appropriation Act in relation to that year has not come into operation, then the President may authorize the issue of moneys from the Consolidated Fund of the Government of the United Republic for the purposes of meeting the expenses of essential business of the Government, and such moneys shall be expended until the expiration of four months from the beginning of the financial year, or until the Appropriation Act comes into operation, depending whichever occurs earlier.

Contingencies
Fund and
virement
Act No.15
of 1984
Art.43

140.-(1) Parliament may enact a law providing for the following:

- (a) the establishment of a Contingencies Fund and authorizing the President or a Minister appointed by the President in that behalf to borrow money from that Fund to meet the costs of an urgent and unforeseen need for which no funds had been provided; and
- (b) authorizing the President or a Minister appointed by the President in that behalf to apply money specifically appropriated for certain business to meet the costs of an urgent and unforeseen need as referred to in paragraph (a) of this subarticle.

(2) Where money has been borrowed from the Contingencies Fund or money specifically appropriated for a certain purpose is applied to meet the costs of an urgent and unforeseen need, then there shall be presented before the National Assembly supplementary estimates, and after the National Assembly has approved the supplementary estimates, a supplementary Appropriation Bill which shall be introduced into the National Assembly for the purpose of authorizing such additional expenditure shall ensure that any moneys borrowed from the Contingencies Fund shall be reimbursed from the moneys the expenditure of which shall be authorized by that Bill

Public Debt
Act No.15
of 1984
Art.43

141.-(1) The public debt of the United Republic shall be secured on the Consolidated Fund of the Government of the United Republic.

(2) For the purposes of interpretation of this Article, “**the public debt**” means the debt itself and also the interest charged on it, sinking fund payments in

respect of that debt and the costs, charges and expenses incidental to the management of that debt.

Remuneration of certain holders of public offices to be a charge on Consolidated Fund
Act No.15 of 1984
Art.43

142.-(1) Holders of public office to whom the provisions of this Article apply shall be paid salaries and allowances as shall be prescribed by a law enacted by a Parliament.

(2) The moneys for the salaries and allowances payable to the holders of offices to whom the provisions of this Article apply together with pension and gratuity for those entitled to such payments shall be a charge on the Consolidated Fund of the Government of the United Republic.

(3) The salary payable to the holder of a public office to whom the provisions of this Article apply together with his terms and conditions of service shall not be varied in a manner which is less beneficial to him, but these provisions shall not apply to allowances payable to the holder of such office.

(4) Where the holder of a public office to whom the provisions of this Article apply has the option to choose the salary or the terms and conditions of service, then for the purpose of construing the provisions of subarticle (3) of this Article, the salary, the terms and conditions of service which he chooses shall be deemed to be more beneficial to him than any other salary or terms and conditions of service which he could have opted for.

(5) The provisions of this Article shall apply to a Justice of Appeal, a Judge of the High Court of the United Republic, the Chairman and every member of the Commission from Human Rights and Good Governance and the Controller and Auditor General of the Government of the United Republic.

Controller and Auditor General of the United Republic
Act No.14 of 1979
Art.11
Act No.15 of 1984
Art.43

143.-(1) There shall be a Controller and Auditor-General of the United Republic.

(2) The Controller and Auditor-General shall have the responsibility over the following matters:

(a) to ensure that the use of any moneys proposed to be paid out of the Consolidated Fund has been authorized and that the funds shall be paid out in accordance with the provisions of Article 136 of this Constitution, and where he is satisfied that those provisions shall be duly complied with, then he shall authorize payment of such moneys;

(b) to ensure that all the moneys the payment of which has been authorized to be charged on the Consolidated Fund of the Government of the United Republic, or the moneys the use of which has been authorized by a law enacted by Parliament and which have been spent, have been applied to the purposes connected with the use of such moneys and that such expenditure has been incurred in accordance with the authorization for such expenditure; and

(c) at least once every year to audit and give an audit report in respect of the accounts of the Government of the United Republic, the accounts managed by all officers of the Government of the United

Republic and the accounts of all courts of the United Republic and the accounts managed by the Clerk of the National Assembly.

(3) The Controller and Auditor-General and every employee of the Government who is authorized by him shall have the right to examine books records, statements of accounts, reports and all other documents concerning any type of account referred to in subarticle (2) of this Article.

(4) The Controller and Auditor-General shall submit to the President every report he makes pursuant to the provisions of subarticle (2) of this Article. Upon receipt of such report, the President shall direct the persons concerned to submit that report before the first sitting of the National Assembly which shall be held after the President has received the report and it shall have to be submitted to such sitting before the expiration of seven days from the day the sitting of the National Assembly began. If the President does not take steps of submitting such report to the National Assembly, then the Controller and Auditor-General shall submit the report to the Speaker of the National Assembly (or the Deputy Speaker if the office of the Speaker is vacant then, or if for any reason the Speaker is unable to perform the functions of his office) who shall submit the report to the National Assembly.

(5) The Controller and Auditor-General shall also have responsibility of discharging other duties and functions, and shall have other various powers as shall be specified by the law concerning the accounts of the Government of the United Republic or the accounts of other public authorities or other bodies.

(6) In the performance of his functions in accordance with the provisions of subarticles (2), (3) and (4) of this Article, the Controller and Auditor-General shall not be obliged to comply with the order or direction of any other person or Government Department, but the provisions of this subarticle shall not preclude a court from exercising jurisdiction to enquire into whether the Controller and Auditor-General has discharged his functions in accordance with the provisions of this Constitution or not.

Removal from
office of
Controller and
Auditor-
General
Act No.15
of 1984
Art.43
Act No.12
of 1995
Art.19

144.-(1) Without prejudice to the other provisions of this Article, the Controller and Auditor-General of the United Republic shall be obliged to vacate office upon attaining the age of sixty or any other age which shall be prescribed by a law enacted by Parliament.

(2) The Controller and Auditor-General may be removed from office only for inability to perform the functions of his office (either due to illness or to any other reason) or for misbehaviour or for violating the provisions of the law concerning the ethics of public leaders and shall not be so removed except in accordance with the provisions of subarticle (4) of this Article.

(3) If the President considers that the question of the removal of the Controller and Auditor-General from office under the provisions of this Article needs to be investigated, then the procedure shall be as follows:

(a) the President shall appoint a Special Tribunal which shall consist of a Chairman and not less than two other members. The Chairman and at least half of the other members of that Special Tribunal shall be persons who are or have been Judges of the High Court or of the

(b) Court of Appeal in any country within the Commonwealth; and the Special Tribunal shall investigate and submit report to the President on whole matter and shall advise him whether or not the Controller and Auditor General should be removed from office in accordance with the provisions of this Article on the grounds of inability to perform his functions due to illness or any other reason or on grounds of misbehaviour.

(4) If the Special Tribunal appointed in accordance with the provisions of subarticle (3) advises the President that the Controller and Auditor-General be removed from office on grounds of inability to perform functions of his office due to illness or any other reason or on grounds of misbehaviour, then the President shall remove him from office.

(5) If the question of removing the Controller and Auditor-General has been referred to a Special Tribunal for investigation pursuant to the provisions of this Article, the President may suspend the Controller and Auditor-General from office, and the President may at any time rescind the decision to suspend the Controller and Auditor-General and in any case such decision shall lapse if the Special Tribunal advises the President that the Controller and Auditor-General be not removed from office.

(6) A person who holds or who has held the office of Controller and Auditor-General shall not be appointed to, or act in, any other office in the service of the Government of the United Republic.

(7) The provisions of this Article shall not apply to any person appointed acting Controller and Auditor-General.

CHAPTER EIGHT PUBLIC AUTHORITIES

The local
government
authorities
Act No.15

of 1984
Art.50

145.-(1) There shall be established local government authorities in each region, district, urban area and village in the United Republic, which shall be of the type and designation prescribed by law to be enacted by Parliament or by the House of Representatives.

(2) Parliament or the House of Representatives, as the case may be, shall enact a law providing for the establishment of local government authorities, their structure and composition, sources of revenue and procedure for the conduct of their business.

Functions of
Local
Government
Authorities
Act No.15
of 1984
Art.50

146.-(1) The purpose of having local government authorities is to transfer authority to the people. Local government authorities shall have the right and power to participate, and to involve the people, in the planning and implementation of development programmes within their respective areas and generally throughout the country.

(2) Without prejudice to the generality of subarticle (1) of this Article, a local government authority, in conformity with the provisions of the law establishing it, shall have the following functions:

(a) to perform the functions of local government within its area;

- (b) to ensure the enforcement of law and public safety of the people; and
- (c) to consolidate democracy within its area and to apply it to accelerate the development of the people.

CHAPTER NINE THE ARMED FORCES

Prohibition to raise and maintain armed forces
Act No.15 of 1984
Art.49
Act No.4 of 1992
Art.36
G.N.No.133 of 2001

147.-(1) It is hereby prohibited for any person or any organization or any group of persons except the Government to raise or maintain in Tanzania an armed force of any kind.

(2) The Government of the United Republic may, in accordance with law, raise and maintain in Tanzania armed forces of various types for the purposes of the defence and security of the territory and the people of Tanzania.

(3) It is hereby prohibited for any member of the defence and security forces to join any political party, save only that he shall have the right to vote which right is specified under Article 5 of this Constitution.

(4) For the purposes of this Article, the expression “member of the defence and security forces” means a member in the service of the Defence Forces, the Police Force, the Prisons Service or the National Service, whether on temporary or permanent terms.

Powers of Commander in-Chief
Act No.15 of 1984
Art.49

148.-(1) Without prejudice to the provisions of any law enacted by Parliament, among the powers of the President as Commander-in-Chief of the Armed Forces is to command the Armed Forces to engage in military operations connected with the defence of the United Republic, rescue operations to save life and property in times of emergency and other matters which the Commander-in-Chief shall deem necessary, and to that end the Commander-in –Chief may command the Armed Forces to engage in those operations in or outside Tanzania.

(2) Without prejudice to the provisions of a law enacted by Parliament, power over the following matters shall vest in the Commander-in-Chief, that is to say:

- (a) the appointment of top commanding officers in the Armed Forces of the United Republic;
- (b) the recruitment of persons into and their removal from the Armed Forces;
- (c) the appointment of commanders of various units of the Armed Forces; and
- (d) the suspension of any power vested in any member of the Armed Forces and pertaining to his being a member of such Force.

(3) Anything done by any member of the Armed Forces in contravention of an order issued by the Commander-in-Chief pursuant to the provisions of subarticles (1) and (2) of this Article shall be void.

CHAPTER TEN
MISCELLANEOUS PROVISIONS

Provisions relating to designation from various offices established by this Constitution Act No.1 of 1980 Art.16 Act No.15 of 1984 Art.52 Act No.4 of 1992 Art.37

149.-(1) Any person holding any office established by this Constitution (including the office of Minister, Deputy Minister, or Member of Parliament, except an ex-officio Member of Parliament) may resign by giving notice in writing and signed by him, in accordance with the following procedure:

- (a) if such person was appointed or nominated by one person, then such notice of resignation shall be submitted to the person who appointed or nominated him, or where he was appointed, or nominated by a body of persons, then such notice of resignation shall be submitted to that body of persons;
- (b) if that person is the holder of the office of President, then the notice of resignation shall be submitted to the Speaker;
- (c) if that person is the Speaker or Deputy Speaker of the National Assembly, the notice of resignation shall be submitted to the National Assembly; and
- (d) if that person is a Member of Parliament, then that notice of resignation shall be submitted to the Speaker.

(2) A person who has given notice of resignation pursuant to the provisions of subarticle (1) of this Article shall be deemed to have resigned from the day the notice of resignation is received by the person or body of persons concerned, or when it is received by any person authorized by a person or body of persons concerned to receive the notice of resignation, but where the notice of resignation states that that person will resign some later day after the receipt of that notice by the person or body of persons concerned, then that person shall be deemed to have resigned from such later day.

(3) Where any person holding any office established by this Constitution, (including the office of the Minister, Deputy Minister or Member of Parliament, except an ex officio Member of Parliament) resigns, then, if he has all the necessary qualifications and is in every respect eligible, he may be reappointed or renominated to hold such office in accordance with the provisions of this Constitution.

(4) Nothing in the provisions of subarticle (3) shall preclude a person holding the office of President from being re-elected to that office while he holds the office of President.

Provisions relating to procedure of succession to office in Government service

150.-(1) For the purpose of interpreting the provisions of this Constitution in relation to the procedure of appointment to the service of the Government of the United Republic, it is hereby declared that any person having power pursuant to this Constitution to appoint or nominate another person to hold a certain office has also the power to appoint or nominate a person to act in, or to temporarily perform the functions of, that office:

Act No.14
of 1979
Art.12
Act No.1
of 1980
Art.16
Act No.15
of 1984
Art.52

Provided that these provisions shall not apply to the offices of Minister, Deputy Minister, Justice of the Court of Appeal, Judge of the High Court, Member of the Commission for Human Rights and Good Governance or Member of the Electoral Commission.

(2) The following rules shall also apply for the purposes of interpreting the provisions of this Constitution concerning the procedure of appointment to offices in the services of the Government of the United Republic:

- (a) where a person holding a certain office pursuant to the provisions of this Constitution is on leave pending vacation of office, then another person may be appointed to that office, notwithstanding that the other person is still in service;
- (b) where two or more persons concurrently hold a certain office pursuant to their appointment in accordance with the rules laid down in paragraph (a) of this subarticle, then in those circumstances if the need arises to perform any duty connected with that office the person last appointed shall be deemed to be the only person holding such office; and
- (c) where pursuant to provisions of this Constitution a person is appointed to act in or to perform the functions of a certain office when the substantive holder of that office fails to perform the duties connected with that office, then it shall not be permitted to inquire into or to make any representations against such appointment on the ground that the substantive holder did not fail to perform the duties connected with that office.

Interpretation
Act No.15
of 1984,
Art.51 and
Art.53
Act No.4
of 1992,
Art.38
Act No.3
of 2000
Art.19
G.N.No.133
of 2001
Act No.1
of 2005
Art.25

- 151.**-(1) In this Constitution unless the context otherwise requires -
- “military law” means a law or command issued pursuant to a law regulating discipline in a Force;
- “member of armed force” when used in connection with any armed force, includes any member of the armed force who in accordance with the military law of the Force, is subject to the discipline of that Force;
- “the House of Representatives” means the House of Representatives of Zanzibar referred to in Article 106 of this Constitution and which performs its functions in accordance with this Constitution and the Constitution of Zanzibar, 1984;
- “Parliament” means the Parliament of the United Republic referred to in Article 62 of this Constitution;
- “Political Party” means a political party which has been granted full registration in accordance with the Political Parties Act, 1992;
- “Judiciary” has the meaning ascribed to it in subarticle (1) of Article 116 of this Constitution;
- “Judiciary of Zanzibar” means the Zanzibar Judiciary which includes all the courts within the Revolutionary Government of Zanzibar;
- “Chief Justice” means the Chief Justice of the Court of Appeal who is specified appointed and whose functions are prescribed in Article 118 of this Constitution;

- “Chief Justice of Zanzibar” means the Chief Justice of the High Court of Zanzibar who, pursuant to the Constitution of Zanzibar, 1984, is the head of the Zanzibar Judiciary;
- “Force” means any of the armed forces and includes any other force established by this Constitution or in accordance with law and which is governed by military law;
- “Commonwealth” means the organization whose members include the United Republic and every country to which the provisions of section 7 of the Citizenship Act, 1961, apply;
- “Oath” shall have the meaning ordinarily ascribed to it and includes any formal declaration permitted by law to be used instead of an oath;
- “oath of allegiance” means the oath to be loyal to the State and to the Government of the United Republic;
- “ethics of Office of Judge” means ethical rules guiding the conduct of persons holding the office of judge or magistrate;
- “office in the service of the Government of the United Republic” shall have the ordinary meaning of that expression and includes service in the Armed Forces of the United Republic and in the Police Force or other force established in accordance with law;
- “court” means any court having jurisdiction in the United Republic except a court established by military law; save that for the purposes of Articles 13, 14 and 15 of this Constitution it shall include a court established under military law;
- “High Court” means the High Court of the United Republic or the High Court of Zanzibar;
- “Union Matters” means all public affairs specified in Article 4 of this Constitution as being Union Matters;
- “State Authority” includes the Executive and the Legislature of the United Republic, as well as the Executive and the House of Representatives of Zanzibar;
- “Attorney-General” means the Attorney-General for the United Republic referred to in Article 59;
- “the Government” includes the Government of the United Republic, the Revolutionary Government of Zanzibar or a District Council or Urban Authority, and also any person exercising any power or authority on behalf of the Government or local government authority;
- “Local Government Authorities” means the local government authorities established under Article 145 of this Constitution for the purposes of exercising the people’s power;
- “Mainland Tanzania” means the whole of the territory of the United Republic which formerly was the territory of the Republic of Tanganyika;
- “Tanzania Zanzibar” means the whole of the territory of the United Republic which formerly was the territory of the People’s Republic of Zanzibar and which was previously referred to as “Tanzania Visiwani”;

“General Elections” or “people elections” means an election of a President and of the Members of Parliament representing electoral constituencies, which is held subsequent to the dissolution of Parliament;

“Ujamaa” or “Ujamaa and Self Reliance” means the society’s life principles for building a Nation that observes democracy, self reliance, freedom, equality, fraternity and unity of the peoples of the United Republic;

“Minister” means a Member of Parliament appointed to the office of Minister, except Deputy Minister, and that definition shall also apply to the Vice-President;

“Zanzibar” has the same meaning as Tanzania Zanzibar.

(2) The following rules shall be applied for the purpose of construing the provisions of the Constitution, that is to say -

- (a) whenever a reference is made to the function of the office of President it shall be construed to include powers to perform various duties and functions as the Head of the Government of the United Republic, and also such other functions or duties if so provided in this Constitution or in any other law that such other powers or duties are powers of the President;
- (b) whenever reference is made to an office in the service of the Government it shall be construed that the office concerned is within the service of the Government of the United Republic unless it is stated otherwise and whenever reference is made to the Government’s department, it shall be construed that the department concerned is a department of the Government of the United Republic unless it is stated otherwise ;
- (c) if pursuant to the provisions of this Constitution there is any matter required to be performed or to be dealt with by any political party, then that matter shall be performed or dealt with by that party in accordance with the procedure laid down by that party for that purpose, and also in conformity with the provisions of this Constitution or any law enacted by Parliament for that purpose;
- (d) for the purposes of this Constitution, a person shall not be deemed to hold office in the service of the Government of the United Republic by reason only that he is receiving pension or other payment of that kind in respect of his past service in the Government of the United Republic or in any former Government of Mainland Tanzania or in the Armed Forces or the Police Force of the Government of the United Republic or former Government of Mainland Tanzania or of Zanzibar;
- (e) in this Constitution, unless the context requires otherwise, whenever reference is made to the holder of a certain office by reference to the designation of his office such reference shall be construed to include any person who is acting in, or who has been duly appointed to perform the functions of that office;
- (f) in this Constitution wherever there is a reference to the power to

remove the holder of an office in the service of the Government of the United Republic, it shall be construed that the power concerned includes the power conferred in accordance with the provisions of any law which requires or permits that person to retire:

Provided that the provisions of this rule shall not be construed as conferring power on any person to require a Justice of the Court of Appeal, a Judge of the High Court or the Controller and Auditor-General to retire from office; and

- (g) in this Constitution, wherever there is reference to a law which replaces or repeals another law, it shall be construed that the law concerned includes a law which amends that other law or which extends the application of that other law whether with or without modification or amendment, or a law which introduces new provisions in another law.

Title,
commencement
and application
of this
Constitution
Act No.15
of 1984
Art.52

152.-(1) This Constitution may be cited as the Constitution of the United Republic of Tanzania, 1977.

(2) This Constitution came into operation on the 26th of April, 1977.

(3) This Constitution shall apply to Mainland Tanzania as well as Tanzania Zanzibar.

FIRST SCHEDULE

(Referred to in Article 4)

UNION MATTERS

1. The Constitution of Tanzania and the Government of the United Republic.
2. Foreign Affairs.
3. Defence and Security.
4. Police.
5. Emergency Powers.
6. Citizenship.
7. Immigration.
8. External borrowing and trade.
9. Service in the Government of the United Republic.
10. Income tax payable by individuals and by corporations, customs duty and excise duty on goods manufactured in Tanzania collected by the Customs Department.
11. Harbours, matters relating to air transport, posts and telecommunications.
12. All matters concerning coinage and currency for the purposes of legal tender (including notes), banks (including savings banks) and all banking business; foreign exchange and exchange control.
13. Industrial licensing and statistics.
14. Higher education.
15. Mineral oil resources, including crude oil other categories of oil or products and natural gas.
16. The National Examinations Council of Tanzania and all matters connected with the functions of that Council.
17. Civil aviation.
18. Research.
19. Meteorology.
20. Statistics.
21. The Court of Appeal of the United Republic.
22. Registration of political parties and other matters related to political parties.

SECOND SCHEDULE

LIST ONE

[Referred to in Article 98(1)(a)]

(Laws the amendment of which requires to be supported by at least two-thirds of all Members of Parliament)

Cap.500
(1965
Edition)
The Republic of Tanganyika (Consequential, Transitional and Temporary Provisions) Act, 1962 Sections 3, 17, 18, 23 and 26

Cap 508
The Judicial Service Act, 1962, [Repealed by Act No.2 of 2005].

The Immigration Act, 1995 [the whole Act.]
The Citizenship Act, 1995 [The whole Act]

Cap.509
The Civil Service Act, 1962, [Repealed by Act No.8 of 2002].

Cap.557
(1965
Edition)
The whole Act of Union between Tanganyika and Zanzibar of 1964.

LIST TWO

[Referred to in Article 98(1)(b)]

(Matters the amendment of which requires to be supported by two-thirds of all Members of Parliament from Mainland Tanzania and two-thirds of all Members of Parliament from Tanzania Zanzibar).

1. The existence of the United Republic.
2. The existence of the Office of President of the United Republic.
3. The Authority of the Government of the United Republic.
4. The existence of the Parliament of the United Republic.
5. The Authority of the Government of Zanzibar.
6. The High Court of Zanzibar.
7. The list of Union Matters.
8. The number of Members of Parliament from Zanzibar.