

THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS)

ACT NO.4 OF 2003

ARRANGEMENT OF SECTIONS

SECTION

TITLE

1. Short title and Commencement.
2. Amendment of certain written laws.

SCHEDULE.

ACT NO.4 OF 2003

I ASSENT

{ AMANI ABEID KARUME }
PRESIDENT OF ZANZIBAR
AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL

9 April, 2003

AN ACT TO AMEND CERTAIN WRITTEN LAWS AND OTHER MATTERS CONNECTED THEREWITH

ENACTED by the House of Representatives of Zanzibar.

Short title 1. This Act may be cited as the Written Laws
(Miscellaneous Amendments) Act, 2003.

Amendment 2. The laws set forth in columns 1 and 2 of the Schedule
of certain to this Act are hereby amended in the manner specified in column 3
written laws of that Schedule.

SCHEDULE

Column 1	Column 2	Column 3
Act No. 4 of 1988	The Specified State Leaders Retirement Benefits Act, 1988.	- Section 22 of the Specified State Leaders Retirement Benefits Act, 1988 is amended as Follows:- (i) by adding in subsection (1), the words "former Speaker" between the words "Chief Minister" and "their". (ii) by deleting in subsection (2), the words "by the resolution of the House of Representatives" at the end of the sentence and substituting therefor the words "by the Revolutionary Council".

- | | | | |
|--------------------|--|---|---|
| Cap. 13 | The Penal Decree. | - | The Penal Decree is amended by deleting the words "Attorney-General" wherever they appear in the Decree and replacing them with the words "Director of Public Prosecutions". |
| Cap. 14 | The Criminal Procedure Decree. | - | The Criminal Procedure Decree is amended by deleting the words "Attorney-General" wherever they appear in the Decree and replacing them with the words "Director of Public Prosecutions". |
| Act No. 5 of 1988 | The Newspapers Act, 1988. | - | Section 49(2) of the Newspapers Act, 1988 is hereby amended by deleting the words "Attorney-General" and replacing them with the words "Director of Public Prosecutions". |
| Act No.14 of 1986 | The Civil Service Commission Act, 1986. | - | Section 15 of the Civil Service Commission Act, 1986 is hereby amended by deleting the words "Attorney-General" and replacing them with the words "Director of Public Prosecutions". |
| Act No. 3 of 1990 | The House of Representatives (Immunities, Powers, and Privileges) Act, 1990. | - | Section 41 of the House of Representatives (Immunities, Powers and Privileges) Act, 1990 is amended by deleting the words "Attorney-General" and replacing them with the words "Director of Public Prosecutions". |
| Other written Laws | Consequential Amendments. | - | Other Written Laws are hereby amended whereby reference in any law to the "Attorney-General" in relation to order prosecutions, to sanction or consent to prosecutions or to give directions or mandate in relation to criminal investigations or prosecutions shall read as reference to "Director of Public Prosecutions" and shall be deemed to commence on the 1 st day of July, 2002. |
| Act No. 5 of 1985 | The Zanzibari Act, 1985. | - | The Zanzibari Act, 1985 is amended:- |

- (i) in section 2 by deleting the definition of the words "the Minister" and substituting for the following:-

"the Minister" means the Minister responsible for Regional Administration".

- (ii) In section 4, by deleting the words "fifteen years" appeared in paragraph (a) and substituting therein for the words "ten years".

Act No. 3 The Kadhi's Court of 1985 Act, 1985

- (a) Section 4 is amended by deleting the whole of that section and substituting for that section the following section:

"Appointment of Chief Kadhi and Deputy Chief Kadhi. 4.(1) There shall be a Chief Kadhi who shall be appointed by the President.

(2) There shall be a Deputy Chief Kadhi who shall be appointed by the President based in Unguja Island.

(3) There shall be an Appellate Kadhi based in Pemba who shall be appointed by the President in consultation with the Judicial Service Commission amongst Senior District Kadhi in Pemba to hold that post and shall have powers to hear and determine appeal cases in Pemba unless the Chief Kadhi directs otherwise.

(4) The Chief Kadhi, Deputy Chief Kadhi and Appellate Kadhi shall not enter upon their duties of office until they have taken and subscribed

the oath of allegiance and such other oath for the due execution of their office as may be prescribed by the House of Representatives.

(5) A person shall not be qualified to be appointed to hold or act in the office of Chief Kadhi, Deputy Chief Kadhi or Appellate Kadhi unless:-

- (i) He professes and follows the muslim Religion; and
- (ii) He possesses such knowledge of Islamic laws which in the opinion of the Judicial Service Commission is qualified to be appointed as such by the President; or
- (iii) he has attended and has obtained recognized qualifications in Islamic Laws from any Institution approved by Council of Ulamaas established under the provisions of the Establishment of the Office of Mufti Act, 2001 and held the qualifications for a period of not less than seven years and has considerable experience in the knowledge of Islamic laws.”

- (b) Section 5 is amended by deleting the whole of that section and substituting for that section the following section:-

“Appointment of District Kadhi. 5.(1) There shall be such number of District Kadhi’s being not less than ten and not more than fifteen who shall be appointed by the President in consultation with the Judicial Service Commission.

(2) A person shall not be qualified to be appointed to hold or to act in the office of a District Kadhi unless:-

- (i) He professes and follows the Muslim religion; and
- (ii) he possesses such knowledge of Islamic laws Applicable to any Sect or sects of Muslim as qualifies Him, in the opinion Of the Judicial Service Commission To be a Kadhi; or
- (iii) he has attended and has obtained recognized qualifications in Islamic Laws from any Institution approved by Council of Ulamaas established under the provisions of the Establishment of the Office of Mufti Act, 2001 and held the

qualifications for a period of not less than three years and has considerable experience in the knowledge of Islamic laws.”

(3) The District Kadhi shall not enter upon his duties of office until he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as prescribed by the House of Representatives.

- (c) Section 6 is amended by deleting the whole of that section and substituting for that section the following section:-

“Jurisdiction of District Kadhi. 6.(1) Every District Kadhi shall have and exercise Jurisdiction in the determination of matters of Islamic laws relating to:-

- (i) personal status, marriage, divorce, guardianships and subject to the provisions of any other law for the time being in force, the custody of children in cases all the parties are Muslims.
- (ii) Wakf or religious charitable trusts, gift intervivos and inheritance in cases all parties are Muslims; and
- (iii) Claims of maintenance, where such claim is for

a lump sum of not exceeding Five hundred thousand shillings or for a periodical payment to be made at a rate not exceeding fifty thousand shillings per month, in cases all parties are Muslims.

(2) Each of the Kadhi's Court shall be a court subordinate to the High Court and shall be duly constituted when held by the Chief Kadhi, Deputy Chief Kadhi, Appellate Kadhi or a District Kadhi.

(3) For the purposes of this section Kadhis' Court includes Chief Kadhis Court.

(4) A Kadhi's court may be held at any place within the area of its jurisdiction as the Chief Justice may from time to time direct."

- (d) Section 10 is amended by deleting the whole of that section and substituting for that section the following section:-

"Appeals from 10.(1) The Chief Kadhi's Kadhis' Court. Court, Deputy Kadhi's Court and Appellate Kadhi's Court shall not Have an original jurisdiction but Shall act as an appellate court for decisions from the District Kadhis Courts.

(2) The appeal shall lie to the High Court from any Judgement of the Chief Kadhi's Court, Deputy Chief Kadhi's Court and Appellate Kadhi's Court and such appeal shall be heard by a

panel of five members presided by a judge of the High Court and the decision shall be by the opinion of the majority of members.

(3) The other four members shall be persons who are well conversant in Islamic laws hereinafter referred to as "Ulamaas" and who shall be appointed by the Judicial Service Commission.

(4) Every "Ulamaa" who sits with a judge of the High Court to determine the appeal shall not enter upon his duties of office until he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as prescribed by the House of Representatives before Chief Justice.

(5) The period of service for the ulamaas sitting with the High Court Judge shall be three years which can be renewed by the Judicial Service Commission for another terms as may be necessary.

(6) The Judicial Service Commission shall appoint such number of ulamaas as it deems necessary so as to avoid all Ulamaas to sit in all cases.

(7) A person shall not be qualified to be appointed as an Ulamaa under this section unless:-

- (i) he professes and follows the Muslim religion; and
- (ii) he possesses such knowledge of Islamic Laws applicable to any sect or sects of Muslims and qualifies him, in the opinion of the Council of Ulamaas established under Act No. 9 of 2001 and the Judicial Service Commission to be a District Kadhi; or
- (iii) he has attended and has obtained a recognised qualification in Islamic Laws from any Institution approved by the Council of Ulamaas and has held the qualification for a period of not less than three years and has considerable experience in the knowledge of Islamic Laws.

(8) The Ulamaas appointed before these amendments shall continue to hold such post until their period expired.

(9) Remuneration and other expenses of such Ulamaas shall be set in the Rules of Court by the Chief Justice as he thinks fit.”

PASSED in the House of Representatives on the 21st day of January, 2003.

{ KHAMIS JUMA CHANDE }
CLERK OF THE HOUSE OF REPRESENTATIVES