
THE UNITED REPUBLIC OF TANZANIA

Acts Supplement

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**THE CONSTITUTION (CONSEQUENTIAL, TRANSITIONAL AND
TEMPORARY PROVISIONS) ACT, 1977**

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THE UNITED REPUBLIC OF TANZANIA



C.A. ACT OF 1977

An Act to make provision consequential upon the enactment of the Constitution of Tanzania, 1977 and for matters connected with the enactment of that Constitution, to repeal the Interim Constitution of Tanzania, 1965 and to amend certain laws

[26TH APRIL, 1977]

ENACTED by the Constituent Assembly of the United Republic of Tanzania.

1. This Act may be cited, as the Constitution (Consequential, Transitional and Temporary Provisions) Act, 1977, shall be read as one with the Constitution of Tanzania, 1977 and shall come into operation on the commencement of that Constitution.

Short title, construction and commencement

2. This Act shall apply throughout the United Republic.

Application

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

Interpretation

"the Constitution" means the Constitution of Tanzania, 1977 (entitled in Kiswahili "Katiba ya Tanzania, ya mwaka. 1977") enacted by the Constituent Assembly of the United Republic;

"existing law" (except in section 13) means the written and unwritten law of Tanzania as it exists immediately before the commencement of the Constitution, and for the avoidance of doubts it is hereby declared that it includes a law enacted or made by any enactment or instrument passed or made before, and coming into operation on or after, the commencement of the Constitution;

"the Interim Constitution" means the Interim Constitution of Tanzania, 1965. cap. 596

4. The provisions of this Act and such of the provisions of the Republic of Tanganyika (Consequential, Transitional and Temporary Provisions) Act, 1962 and of the Interim Constitution (Consequential, Transitional and Temporary Provisions) Act, 1965 as have not expired shall have effect notwithstanding anything contained in the Constitution.

This Act and Caps 500 and 598 to prevail over the Constitution

TRANSITIONAL PROVISIONS

Existing law

5.-(1) Without prejudice to the repeal, revocation or amendment of any existing law, with effect from the commencement of this Act the existing law shall continue to be the law of Tanzania after the commencement of the Constitution except insofar as it is amended, modified, repealed or revoked by competent authority or any provision of it expires after the commencement of the Constitution. However, the existing law shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the provisions of the Constitution or of this Act; and, for the avoidance of doubts it is hereby declared that, subject to the modifications, adaptations, qualifications and exceptions with which the existing law shall be construed and, subject also to the other provisions of this Act, the operation of the existing law after the commencement of the Constitution shall not be affected by the repeal of the Interim Constitution.

(2) The President may, at any time before 31st December, 1977, by order published in the *Gazette*, make such amendments to, any existing law as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of the Constitution or for giving effect or enabling effect to be given to those provisions, and where the President makes an order under this section in relation to an Act of the East African Community, that order shall have effect so as to amend that law in Tanzania and in relation to any person or matter connected with Tanzania in respect of any matter within the legislative competence of the Parliament of the United Republic, notwithstanding any provision to the contrary in the Interpretation of Laws and General Clauses Act, 1972.

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Constitutional requirements fulfilled by existing law

6. Where any matter that falls to be prescribed or provided for under the Constitution by Act of Parliament or by any other authority or person is prescribed or provided for by or under existing law (including any amendment made to that law under section 5 of this Act) or is prescribed or provided for immediately before the commencement of the Constitution by or under the interim Constitution or for the purposes of the Interim Constitution, that prescription or provision shall, as from the commencement of the Constitution, have effect as if it had been made under the Constitution by Act of Parliament or, as the case may be, by the other authority or person.

Pending matters

7. Where any matter or thing has been commenced, or any step has been taken, before the commencement of this Act, by any person or authority having power for that purpose under existing law, the matter or thing may be carried on and completed and further steps may be taken by the person or authority having power for that purpose on or after the commencement of this Act, and it shall not be necessary for the latter person or authority to reconsider the matter or thing or take the step afresh.

8.-(1) Subject to the provisions of subsections (2) and (3) of this Officers section, every person who, immediately before the commencement of the Constitution, holds or is acting in any office established by or under the Interim Constitution or any former constitution shall, so far as is consistent with the provisions of the Constitution, be deemed as from the commencement of the Constitution, to have been elected or appointed, to the like office or to act in the like office established by or under the Constitution or shall be deemed to be in the service of the United Republic and to have complied with any requirement of the Constitution, or of other written law, to take and subscribe any oath on election or appointment to office.

(2) Any person who, under the Interim Constitution or any former constitution or existing law, would be required to vacate his office at the expiration of any period or on the attainment of any age shall vacate his office at the expiration of that period or upon the attainment of that age.

(3) The provisions of this section shall apply without prejudice to the powers conferred by or under any law upon any person or authority to make provisions for the abolition of offices, to remove persons holding or acting in offices, or to require persons to retire from office.

9.-(1) Subject to, the provisions of subsection (2) of this section, but notwithstanding the enactment of the Constitution and the provisions in that Constitution relating to the composition of the National Assembly, the Speaker and the persons who, immediately before the commencement of the Constitution are members of the National Assembly established under the interim Constitution shall continue to be the Speaker and members respectively of, and to constitute, the National Assembly, under the Constitution until the next dissolution of, Parliament made after the commencement of the Constitution and in accordance with the provisions of that Constitution.

Continuation of the National Assembly established under the Interim Constitution

(2) The provisions of subsection (1) of this section shall apply without prejudice to the operation of the provisions of the Interim Constitution relating to vacation of the office of Speaker or seat of a member of the National Assembly in the circumstances prescribed by the Interim Constitution.

10.-(1) Subject to the provisions of subsection (2) of this section, but notwithstanding the enactment of the Constitution and the provisions in that Constitution relating to the election of the head of the Executive for Zanzibar and Chairman of the Revolutionary Council of Zanzibar and the constitution of the Revolutionary Council of Zanzibar, the head of the Executive for Zanzibar and the persons who, immediately before the commencement of the Constitution are members of the Revolutionary Council of Zanzibar in accordance with the law in force in Zanzibar immediately before the commencement of the Constitution which relates to the Executive and Legislative authorities of Zanzibar shall continue to be the Chairman and members respectively of, and constitute the Revolutionary Council, under the Constitution until the

Head of the Executive for Zanzibar and Chairman and members of the Revolutionary Council of Zanzibar

next election, of the head of the Executive for Zanzibar and the appointment of the members of the Revolutionary Council made after the commencement of the Constitution and in accordance with the provisions; of that Constitution.

(2) The provisions of subsection (1) of this section shall apply without prejudice to the operation of the provisions of the law in force in Zanzibar relating to the vacation of the office of head of the Executive for Zanzibar or the termination of the appointment of any person to membership of the Revolutionary Council in the circumstances prescribed by or under that law.

Dissolution
of
Parliament
under the
Interim
Constitution

11.-(1) Where, in accordance with the Constitution or any other law in force after the commencement of the Constitution any matter or thing is to be, or may be, done on or on account of a dissolution of Parliament, the matter or thing shall be done or, as the case may be, may be done on or on account of the dissolution of the Parliament established under the Interim Constitution.

(2) If any occasion arises before the declaration of the majority of the results in the general election to be held on the dissolution of the Parliament established under the Interim Constitution-

(a) for the summoning of Parliament under the powers contained in subsection (5) of section 42 of the Constitution, the Speaker and the persons who, immediately before the dissolution, were members of the National Assembly established under the Interim Constitution may be summoned to that Parliament and, until midnight on the day on which the majority of results are declared, those persons shall be deemed to be the Speaker and the members respectively of, and to constitute, the National Assembly;

(b) for the appointment of any person to any office appointment to which, at a time when Parliament is dissolved, is restricted to persons who were members of the National Assembly immediately before dissolution, an appointment may be made to that office from among the persons who were members of the National Assembly immediately before the dissolution of the Parliament established by the Interim Constitution.

Legal
proceedings

12.-(1) Any proceeding pending immediately before the commencement of the Constitution before the High Court established by the Interim Constitution may be continued and concluded, and decrees, judgements and orders in that proceeding may be given and perfected after the commencement of the Constitution before and by the High Court established by the Constitution.

(2) Every decree, judgement or order given or perfected by the High Court established by the Interim Constitution or by any former High Court which shall not have been fully executed or enforced before the commencement of the Constitution, may be executed and enforced

after the commencement of the Constitution by the High Court established by the Constitution and, insofar as they have jurisdiction, by courts subordinate to the High Court.

13. The powers conferred on the President of the United, Republic by subsection (2) of section 5 and section 8 of the Acts of Union of Tanganyika and Zanzibar and by section 3 of the Interim Constitution (Amendment) Act, 145- which powers were saved for the purposes of the Interim Constitution by section 15 of the Interim Constitution (Consequential, Transitional and Temporary Provisions) Act, 1965 shall not be affected by the replacement of the Interim Constitution by the Constitution, but the President may exercise those powers in relation to the Constitution, for the like purposes as he is thereby empowered to exercise them in relation to the Interim Constitution, and may continue to exercise those powers in relation to existing laws within the several meanings ascribed to that expression in those Acts. .

Powers of the President under the Acts of Union Cap. 557 Acts, 1965 No. 21

REPEAL AND AMENDMENTS

14.-(1) Subject to the provisions of subsection (2) of this section, the Interim Constitution is hereby repealed. **Repeal**

(2) Subject to the foregoing provisions of this Act, the provisions of sections 13, 14 and 15 of the Interpretation of Laws and General Clauses Act, 1972 (which relate respectively to repeal and substitution, effect of repeal and effect of repeal of an Act on subsidiary legislation) shall have effect in relation to the repeal of the Interim Constitution as if the Interim Constitution were an Act of Parliament which is repealed and replaced by the Constitution.

15. The laws specified in the first and second columns of the Schedule to this Act are hereby amended, in the manner specified opposite the citation 'of the law in, the third column of that Schedule. **Amendments**

16. Notwithstanding the repeal of Part 3 of Chapter 11 of the Elections Act, 1970 (comprising sections 41, 42, 43, 44 and 45)- **Savings**

- (a) every person registered as voter in accordance with the provisions of sections 41, 42, 43, 44 and 45 of the Elections Act, 1970 as in force immediately before the commencement of this Act, shall be deemed to have been registered as a voter under and in accordance with the provisions of Parts I and 2 of Chapter II of the Elections Act, 1970 (comprising sections 13 to 31 inclusive);
- (b) every register of voters and certificate of registration as a voter, maintained or issued under and in accordance with the provisions of sections 41, 42, 43, 44 and 45 of the Elections Act, 1970 as in force immediately before the commencement of this Act, shall be deemed to have been maintained or issued under and in accordance with the provisions of Parts 1 and 2 of Chapter II of the Elections Act, 1970.

SCHEDULE

COLUMN THREE
COLUMN ONE

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COLUMN TWO

The Elections Act, 1970

- (1) In section 1-
(a) delete the marginal note and substitute the following: -
"Short title, construction and application";
(b) delete the passage "the Interim Constitution, 1965" in subsection (2) and substitute the passage "the Constitution, 1977";
(C) add immediately below subsection (2) the following new subsection:
" (3) The provisions of this Act which relate to Presidential elections and parliamentary elections shall, apply throughout the United Republic: Provided that in relation to Zanzibar the jurisdiction conferred upon a resident magistrate by any of those provisions and the jurisdiction to try any person for any offence shall vest in the High Court."
- (2) In subsection (1) of section 2-
(a) delete the definition of "Electoral Conference" and substitute the following:
" "National Conference" means the National Conference of the Party;"
and throughout the Act delete the expression "Electoral Conference" wherever it occurs and substitute in each case the expression "National Conference";
(b) delete the definition of "the Party" and substitute the following:
" "the Party" means Chama cha Mapinduzi referred to in section 3 of the Constitution; "
- (3) Part 3 of Chapter II and all the sections in that Part (sections 41, 42, 43, 44 and 45) are repealed,
(1) In section 3 (0) delete the definitions of "District" and "Region" and substitute in the appropriate alphabetical positions the following:
" "District" means any part of the United Republic proclaimed or deemed to be proclaimed by the President under section 2 (2) of the Constitution to be a district;
"Region" means any part of the United Republic proclaimed or deemed to be proclaimed by the President under section 2 (2) of the Constitution to be a region; "
(2) Section 4 is repealed.
(3) In subsection (1) of section 7 delete the figure "51" which appears twice in that subsection and substitute in each case the figure "52".
(4) Part VII and section 57 contained in that Part are repealed.

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The Interpretation of Laws and
General Clauses Act, 1972

Passed in the Constituent Assembly on the twenty-fifth day of April, 1977.


..... W. J. MAINA
Clerk of the National Assembly