THE CONSTITUTION (CONSEQUNTIAL, TRANSITIONAL AND TEMPORARY PROVISIONS) ACT, 1992

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THE UNITED REPUBLIC OF TANZANIA

NO. 9 OF 1992

I ASSENT,

.....

President

29/5/92

An Act to make provisions consequential upon the amendment of the Constitution of the United Republic of Tanzania, 1977, and to provide for matters connected with or incidental to the amendment of that Constitution

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

Short title, construction and commencement

1.—(1) This Act may be cited as the Constitution (Consequential, Transitional and Temporary Provisions) Act, 1992, and shall be read as one with the Eigth Constitutional Amendment Act, 1992, entitled in Kiswahili "Sheria ya Mabadiliko ya Nane Katika Katiba ya Nchi ya Mwaka 1992", and referred to in this Act as "the Act".

(2) This Act shall come into operation on the date of commencement of the Act.

Application

2. This Act shall apply to Mainland Tanzania as well as to Tanzania Zanzibar.

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

Interpretation

"the Act" means the Eighth Constitutional Amendment Act, 1992, entitled in Kiswahili "Sheria ya Mabadiliko ya Nane Katika Katiba ya Nchi ya Mwaka 1992";

"the amended Constitution "means the Constitution as in force prior to its amendment by the Act;

"the Constitution" means the Constitution of the United Republic of Tanzania, 1977, entitled in Kiswahili "Katiba ya Jamhuri ya Muungano wa Tanzania ya mwaka 1977";

"existing law" means the written and unwritten law of Tanzania as it exists immediately before the commencement of the Act, and for the avoidance of doubt it is hereby declared that it includes any law enacted or made by any enactment or instrument passed or made before and coming into operation on, or after, the commencement of the Act.

This Act and previous specified laws to prevail over the Act

4.—(1) The provisions of this Act and such of the provisions of the previous specified laws as have not expired shall, with effect from the commencement of the Act, have effect notwithstanding anything contained in the Act.

Cap. 500
Cap. 598
Cap. 598
C.A. Act, 1977 No. 2
C.A. Act, 1984 No. 16

(2) For the purposes of this Act the expression "previous specified laws" means the Republic of Tanganyika (Consequential, Transitional and Temporary Provisions) Act, 1962, the Interim Constitution (Consequential, Transitional and Temporary Provisions) Act, 1965, the Constitution (Consequential, Transitional and Temporary Provisions Act, 1977, and the Constitution (Consequential, Transitional and Temporary Provisions) Act, 1984.

Existing laws to continue in force

5.—(1) Without prejudice to the repeal, revocation or amendment of any existing law, with effect from the commencement of this Act, the existing laws shall, so far as they are not inconsistent with the Act, continue to be the law of Tanzania, except in so far as it is amended, modified, repealed or revoked by competent authority or any provision of it expires after the commencement of the Act. 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 Act or as are provided in 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 laws after the commencement of the Act shall not be affected by the amendment of the Constitution.

(2) The President may, by order published in the *Gazette*, at any time within six months of the commencement of this Act, 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 Act and 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 any law which is applicable to Tanzania Zanzibar as well as to Mainland Tanzania, that order shall have effect so as to amend that law in relation to any person or matter connected with Tanzania Zanzibar as well as with Mainland 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, save that any such amendment shall be tabled before the National Assembly when it next meets after the publication of the amendment in the *Gazette*. Cap. 1

Constitutional requirements fulfilled by existing laws

6. Where any matter that falls to be prescribed or provided for otherwise under the Act 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 Act by or under the Constitution or for the purposes of the Constitution, that prescription or provision shall, as from the commencement of the Act have effect as if it had been made under the Act 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.

Prerogatives and privileges of the President

8. Where under the existing laws any prerogatives or privileges are conferred on or vested in the President, those prerogatives or privileges shall, after the commencement of this Act, continue to be conferred on or to vest in the President.

Continuation in office of President

9. The person holding the office of President immediately before the commencement of this Act shall, subject to section 16(3) continue in office and shall exercise the executive powers of the President under the amended Constitution until the person elected at the first election to the office of President after the commencement of the Act assumes office.

Continuation in office of Vice-President

10. The person holding the office of Vice-President by virtue of being the Head of the Executive for Tanzania Zanzibar and President of Zanzibar immediately before the commencement of this Act shall, unless he ceases to hold office by virtue of the provisions of section 28, 30 or 32 of the Constitution of Zanzibar, 1984, or resigns, continue in office and shall exercise the executive powers of the Head of the Executive for Tanzania Zanzibar under the amended Constitution until the person elected at the first election to the office of Head of the Executive for Tanzania Zanzibar after the commencement of the Act assumes office.

Existing public offices and officers

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

(2) Any person who, under the amended 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.

(4) Subject to the provisions of the Constitution or any law in relation to persons in the public service, any person who is a public officer and who immediately before the commencement of the Act holds any office in, or is seconded to the Chama Cha Mapinduzi, shall, after the commencement of the Act, continue to be a public officer in the Civil Service of the United Republic.

(5) Subject to the preceding provisions of this section —

(a) all persons holding the office of Mayor, Chairman, Councillor or member of any local government authority under existing law immediately before the commencement of the Act, and

(b) all persons holding or elected to hold the office of Chairman or of Secretary of a village council by virtue of having been elected to be Chairman or Secretary, as the case may be of a CCM branch before or after the commencement of the Act,

shall continue in the office concerned and shall exercise the power conferred on the holder of that office by existing law until the new person next elected to that respective office after commencement of the Act assumes office.

Continuation of National Assembly

12.—(1) Subject to this section, the National Assembly constituted under the existing law shall continue to be the National Assembly on and after the commencement of the Act until it is next dissolved in anticipation of the holding of Parliamentary and Presidential elections under the Constitution as amended by the Act.

(2) Every person who, immediately before the commencement of the Act, is a member of the National Assembly constituted under existing law, or after the commencement of the Act is appointed to hold the office of Regional Commissioner, shall continue to be members respectively of, and to constitute, the National Assembly, under the Act and the Constitution, notwithstanding section 147(3) of the Constitution, until the next dissolution of the National Assembly made after the commencement of the Act and in accordance with the provisions of the Act as incorporated into the Constitution.

(3) The persons who, immediately before the commencement of the Act are the Speaker and Deputy Speaker of the National Assembly constituted under existing law shall, after the commencement of the Act, continue to be respectively the Speaker and the Deputy Speaker of the National Assembly.

(4) The provisions of subsections (1), (2) and (3) shall apply without prejudice to the operation of the provisions of the Constitution relating to the vacation of the office of Speaker or Deputy Speaker of the National Assembly in the circumstances prescribed by the Constitution.

Dissolution of Parliament under the amended Constitution

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

(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 existing law—

(a) for the summoning of Parliament under the powers contained in section 90(4) of the Constitution, the Speaker and the persons, who immediately before the dissolution, were members of the National Assembly established under existing law may be summoned to that Parliament and, until midnight on the day on which the majority of the 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, any 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 under existing law.

Vesting of and succession to property and assets

14.—(1) Subject to this Act and the Constitution, all property of every nature and kind and all assets which immediately before the commencement of the Act are lawfully vested, or held in trust for, the President or in any other person in right of or for the purposes of the Government of the United Republic or of the Revolutionary Government of Zanzibar shall after the commencement of the Act continue to be so vested or held in trust, as the case may be.

(2) Subject to such decisions as Chama Cha Mapinduzi may make in that behalf, all property of every nature and kind and all assets which immediately before the commencement of the Act are lawfully vested in, or held in trust for, the Registered Trustees of Chama Cha Mapinduzi shall after the commencement of the Act continue to be so vested or held in trust, as the case may be.

(3) Where Chama Cha Mapinduzi makes any decision respecting the vesting or disposal of any property or asset lawfully vested in the Registered Trustees of Chama Cha Mapinduzi or otherwise liable to escheat or to be forfeited to them, the decision shall be final and the transfer of title to that property or asset may then be effected in accordance with law.

Rights, liabilities and obligations

15.—(1) Notwithstanding the commencement of the Act, the establishment of political parties other than Chama Cha Mapinduzi and the cessation of the exercise by Chama Cha Mapinduzi of final authority in relation to public affairs in accordance with the Constitution—

(a) shall not affect the previous operation of any decisions made by Chama Cha Mapinduzi and carried out by any person or the Government in pursuance of any provision of existing law;

(b) shall not affect any right, privilege, obligation or liability acquired, accrued or incurred under any provision of existing law;

(c) shall not affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any decision lawfully made by or under lawful authority of Chama Cha Mapinduzi in pursuance of any provision of existing law;

(d) shall not affect any investigation, legal proceedings, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid, and any such investigation, legal proceedings, or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the Act had not been enacted.

(2) For the avoidance of doubt it is hereby declared that all rights, liabilities and obligations of Chama Cha Mapinduzi or its agents and of the President or any public officer on behalf of the Government or of any other person before the commencement of the Act and this Act shall, on and after the commencement of the Act and this Act, be rights, liabilities and obligations of the Party or its agents, or the President or such public officer on behalf of the Government or of any such other person, as the case may be.

Special transitional provisions

16.—(1) Notwithstanding any other provision of this Act, with effect from the commencement of the Act and this Act, and until the expiration of one hundred and eighty days—

(a) no election or by-election shall be held for the purposes of filling any vacancy in the office of President or of the Vice-President who is also President of Tanzania Zanzibar.

(b) no election or by-election shall be held or any appointment made for the purposes of filling any vacancy in the National Assembly;

(c) no election or by-election shall be held for the purposes of filling any vacancy in the office of Mayor, Chairman or member of any local government authority.

(2) Notwithstanding any other provision of this Act, until the expiration of one hundred and eighty days from the commencement of the Act, no subvention shall be disbursed by the Government to any political party.

(3) Until such time as Parliament makes provision in substitution for section 41, 42 and 104 of the Constitution to provide for the procedure for the election of the President and of the President of Tanzania Zanzibar, which procedure shall make it possible for all registered political parties to participate in such election, no election of the President or of the President of Tanzania Zanzibar shall be held, and sections 41, 42 and 104 of the Constitution shall not apply; save that where the office of President falls vacant in circumstances prescribed in section 37(5) and such vacancy occurs within the one hundred and eighty days referred to in subsection (1), then no election of the President shall be held until Parliament makes such provision as aforesaid, and the period of ninety days referred to in section 37(5) of the Constitution shall be construed to be a period of not more than one hundred and eighty days.

(4) All functions which immediately before the commencement of this Act were vested in the President or in any other person or authority shall, as far as the same continue in existence and are capable of being exercised after the commencement of this Act, be vested in the President or the other person or authority exercising similar functions under the Constitution, as the case may be, except such functions as are by this Act or any other law vested in some other authority.

Amendment of the Constitution Cap. 1

17.—(1) Subject to subsection (2), the various provisions of the Constitution specified in the Act are hereby respectively amended or repealed, as the case may be, in the manner specified, in each case, in the Act.

(2) Subject to the preceding provisions of this Act, the provisions of sections 17, 18 and 19 of the Interpretation of Laws and General Clauses Act, 1972, which relate respectively to construction of amending Act with amended Act, reprint of amended Act and reference to amended written law, shall have effect in relation to the amendment or repeal of the respective provisions of the Constitution as if the Constitution were an Act of Parliament the various provisions of which are amended deleted or replaced by the Act.

Passed in the National Assembly on 12th May, 1992.

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Clerk of the National Assembly

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