



THE ZANZIBAR BUSINESS AND PROPERTY REGISTRATION AGENCY ACT, 2012

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ACT NO. 13 OF 2012

I ASSENT

{ DR. ALI MOHAMED SHEIN }
PRESIDENT OF ZANZIBAR
AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

7th December, 2012

**AN ACT TO ESTABLISH THE ZANZIBAR BUSINESS AND
PROPERTY REGISTRATION AGENCY AND
OTHER MATTERS RELATED THERETO**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY PROVISIONS**

Short title
and
Commencement.

1. This Act may be cited as the Zanzibar Business and Property Registration Agency Act, 2012 and shall come into operation immediately after being assented to by the President.

Interpretation.

2. In this Act unless the context otherwise requires:-

“Agency” means the Zanzibar Business and Property Registration Agency established under section 3 of this Act;

“Deputy Executive Director” means a person appointed to hold that post under section 10 of this Act;

“Deputy Registrar -in- Charge for Pemba” means a person appointed to hold that post under section 11 of this Act and includes any person appointed to act on that behalf;

“Executive Director” means a person appointed to hold that post under section 6 of this Act and where appropriate, shall include a person acting on his behalf;



“Government” means the Revolutionary Government of Zanzibar;

”Minister” means the Minister responsible for matters relating to the Zanzibar Business and Property Registration Agency;

“Officer” means a person employed as such to perform registration process or other duties under this Act.

“President” means the President of Zanzibar and Chairman of the Revolutionary Council;

“Relevant laws” means the laws listed under the Schedule to this Act and as may be amended from time to time;

“Revenue” means fees, charges or other monies imposed by or collected under the relevant laws.

PART II

ESTABLISHMENT OF THE ZANZIBAR BUSINESS AND PROPERTY REGISTRATION AGENCY

Establishment
of Zanzibar
Business and
Property
Registration
Agency.

3.(1) It is hereby established an office to be known as the Zanzibar Business and Property Registration Agency.

(2) The Zanzibar Business and Property Registration Agency shall be a semi-autonomous registration Agency of the Government in the Zanzibar public service.

Functions
of the
Agency.

4. (1) The Agency shall ensure effective and efficient administration and enforcement of:-

- (i) the relevant laws concerning business and property registration in Zanzibar as set out in the schedule to this Act as may be amended from time to time by the Minister; and
- (ii) any other law or Regulations concerning registration that may be assigned to the Agency by a Ministry, department or any other authority which administers such legislation or Regulations.

(2) Subject to the provisions of this section, the Minister may, by notice published in the Gazette amend, vary or replace the schedule referred to under subsection (1) of this section.



(3) In the performance of its functions, the Agency shall observe the following principles:-

- (a) to provide its services to its customers and the public in general in the most efficient and effective manner;
- (b) to manage its affairs in a businesslike and cost-effective manner and in accordance with modern management practices and techniques and, in particular, to apply to its operations the best standards of financial management and accounting; and
- (c) to ensure that its operations are designed for the provision of the best services to its customers and to maintain a high degree of responsiveness to their needs.

Branch
Offices.

5. The Agency may establish and maintain such branch offices as may be required for better carrying out of its functions or as required by the relevant laws.

PART III ADMINISTRATION OF THE AGENCY

Appointment
of Executive
Director.

6.(1) There shall be the Executive Director of the Agency who shall be appointed by the President.

(2) A person shall qualify to be appointed as the Executive Director if he:-

- (a) is a Zanzibari;
- (b) holds a degree in law or management or equivalent from a recognised University; and
- (c) has not less than five years experience in the relevant field.

(3) The Executive Director shall:-

- (a) be the Chief Executive Officer and responsible for day to day functions and administration of the Agency;
- (b) be the overall in-charge of the Agency; and
- (c) perform all functions and powers of Registrars provided under relevant laws.



Functions
of the
Executive
Director.

7.(1) Executive Director shall have the following functions:-

- (a) to undertake or cause to be undertaken the registration functions under relevant laws;
- (b) to maintain business and property registers, index books, data and records on the registrations effected by the Agency and to act as a custodian for information and data on those registrations;
- (c) to provide information services in relation to registration under relevant laws;
- (d) to collect and account for all revenue provided for under relevant laws;
- (e) to advise the Government on matters pertaining to the business and property registration services under the relevant laws;
- (f) to supervise, monitor and coordinate the performance of Registrars appointed in accordance with relevant laws so as to ensure compliance with the set standards and guidelines and national plans and policies;
- (g) to evaluate from time to time the practicability and efficacy of the relevant laws and advise the Government accordingly;
- (h) to collect, compile and analyse statistical information relating to the data and records collected by the Agency under the relevant laws and produce reports from time to time; and
- (i) to perform any other function or to carry out such other activities as may be conducive or incidental to the efficient discharge of its functions under this Act.

(2) The executive director shall be Registrar under relevant laws by virtue of his post, and shall cease to be Registrar upon suspension, expiry or revocation of his appointment.

(3) All entries, records and data required to be kept and all certificates required to be issued under this section, may be stored, processed and analyzed electronically and all existing records shall gradually be transferred to electronic data base.

Powers of
the
Executive
Director.

8.(1) The Executive Director may:-



- (a) require any person to produce any instrument, certificate or other document relating to any registration in question and the person so required shall produce the same;
- (b) refuse to proceed with registration of any instrument, certificate or other document of which information or explanation required to be produced or given is withheld, or if any act required to be performed under this Act or any of the relevant laws is not performed; provided that upon such refusal the Executive Director shall give reason for his refusal;
- (c) require any proceedings, information or explanation be verified on oath or by statutory declaration as the case may be;
- (d) charge fees for any services rendered by the Agency in accordance with relevant laws;
- (e) summon any person or body of persons for the purpose of verification of any document or any matter arising under his jurisdiction;
- (f) give orders, directives or conditions on any matter under his jurisdiction;
- (g) establish a consultative arrangements necessary to secure the views of the users of its services;
- (h) with the approval of the Minister, cooperate or collaborate with any institution within or outside Zanzibar; and
- (i) subject to the approval of the Minister, may join any like-minded regional or international organization for the purpose of promoting the objectives of the Agency.

(2) Any person dissatisfied with the decision of the Executive Director may refer his grievances within twenty one days to the Minister.

Delegation of Powers. 9. The Executive Director may in writing, authorize any officer to exercise or to perform all or any of the powers or duties conferred on him by this Act or by any regulations made thereunder.

Appointment of Deputy Executive Director. 10.(1) The President may appoint a Deputy Executive Director as he shall deem necessary to assist the Executive Director in the execution of his administrative and registration functions.



(2) A person shall qualify to be appointed Deputy Executive Director if he:-

- (a) is a Zanzibari;
- (b) holds a degree in law or management or equivalent from a recognised University; and
- (c) has not less than four years experience in the relevant field.

(3) The Deputy Executive Director shall be the principal assistant of the Executive Director in day to day administration of this Act, and shall work and perform all functions vested to him by this Act or assigned to him by the Executive Director.

(4) Deputy Executive Director shall by virtue of his post be the Deputy Registrar under all relevant laws.

Appointment
of Registrar
in Charge
Pemba.

11.(1) The Minister may appoint the Deputy Registrar in-charge for Pemba.

(2) A person shall qualify to be appointed Deputy Registrar in- charge for Pemba if he holds such academic qualification that closely resembles those of the Deputy Executive Director and experience of not less than three years.

(3) The Deputy Registrar -in- charge for Pemba shall undertake such functions and exercise such powers on behalf of the Executive Director as may be assigned to him under the provisions of this Act or by the Executive Director.

Assistant
Registrars.

12.(1) There shall be Assistant Registrars who shall each be appointed under the provisions of relevant laws.

(2) Assistant Registrars appointed under the relevant laws shall be responsible to the Executive Director.

Appointment
of Other
Officers.

13.(1) There shall be heads of departments and heads of sections who shall be appointed by the Executive Director.

(2) Other officers required for the proper management of the Agency shall be appointed in accordance with the applicable Public Service Laws.



PART IV FINANCIAL PROVISIONS

Funds of
the
Agency.

14. The funds of the Agency shall consist of:-

- (a) monies appropriated each year by the House of Representatives;
- (b) grants, retention, donations from the Government or any other person, authority or organization subject to the approval of the Minister;
- (c) any other money from lawful sources that may be received by or made available to the Agency.

Revenue
payable into
Consolidated
Fund.

15.(1) All revenue collected by or due to the Agency under this Act shall be payable into the Consolidated Fund.

(2) Subject to subsection (1) of this section the Minister responsible for finance may authorize retention of funds collected by the Agency whereas such retention shall be deemed amount disbursed from the Consolidated Fund and shall be accordingly accounted for on the budget of the Agency.

Estimates.

16. The Executive Director shall prepare, before the beginning of each financial year, an estimates of income and expenditure of the Agency for the next ensuing financial year and submit to the Minister for inclusion in the annual budget of the ministry; and when it becomes necessary at any time before the end of financial year, the Executive Director shall prepare and submit to the Minister supplementary estimates for that financial year.

Accounts
and
Audit.

17 (1) The Agency shall keep proper books of accounts of all its income and expenditure and proper records in accordance with the directives issued by the Accountant General.

(2) The accounts of the Agency shall, in respect of each financial year, be audited by the Controller and Auditor General or by an auditor appointed by the Controller and Auditor General.

PART V MISCELLANEOUS PROVISIONS

Registration
Procedure
and
Registers.

18. The registrations referred to in this Act shall be carried out as provided by the relevant laws under which the registration is made, and the registers shall be maintained as prescribed under each relevant law.



Exemption from Liabilities.	19. The Executive Director shall not, nor shall any other officer, employee or any person acting on behalf of and on the authority of Executive Director be liable to any action or proceedings for or in respect of any act or matter done or omitted to be done in good faith in the exercise of his powers and duties under this Act, or any regulations made under this Act.
Authenticity of Documents.	20. Any document purporting to be an instrument made or issued by or on behalf of the Agency or a certificate issued under relevant law bearing the imprint of such seal shall be received as evidence and, unless the contrary is shown shall be deemed without further proof to be issued by or under the direction of the Executive Director.
Vesting of Assets and Liabilities.	21.(1) All employees in the public service who immediately before the commencement of this Act were in service for the purpose of the functions vested to the Agency under this Act shall, continue to automatically be the employees of the Agency as if employed by the Agency. (2) All employees and properties, except such property as the Minister may specify in writing, which immediately before the commencement of this Act, was vested in the Government for the use of the Zanzibar Business and Property Registration Agency for the purposes of giving effect to the relevant laws, shall, on the date of commencement of this Act, vest in the Agency subject to all interests, liabilities, charges, obligations and trusts affecting that property without further conveyance or transfer.
Pending Proceedings.	22. All legal proceedings and claims pending in respect of actions or activities to which the relevant laws apply before this Act comes into operations, shall continue or be enforced by or against the Agency in the same manner as if this Act had not been enacted.
Offences and Penalties.	23.(1) Any person who:- (a) is found in possession of a false document purported to be issued by the Agency; or (b) provides false information for the purpose of inducing any officer; or (c) issues or is involved in the process of preparation of any document contrary to the laid down procedures under any relevant law; commits an offence and upon conviction shall be liable to a fine of not less than five hundred thousand shillings and not exceeding three million shillings or to an imprisonment for a term of not less than two months and not more than three years or to both such fine and imprisonment;



(2) Any person who:-

- (a) wilfully refuses to comply with an order of the Executive Director or any other person acting on that behalf, issued under paragraph (a), (c), (e) and (f) of section 8(1) of this Act, commits an offence and upon conviction shall be liable to a fine of not less than five hundred thousand shillings and not exceeding two million shillings, or to an imprisonment for a term of not less than two months and not more than two years; or to both such fine and imprisonment;
- (b) obstructs any officer of the Zanzibar Business and Property Registration Agency to perform any of the functions of the Agency under this Act, commits an offence and upon conviction is liable to a fine of not less than one million shilling and not exceeding three million shillings or imprisonment for a term of not less than six months and not more than two years or both such fine and imprisonment.

(3) Any person who contravene the provisions of this Act or regulations made thereunder or the provisions of relevant laws, commits an offence and upon conviction shall be liable to a fine of not less than five hundred thousand shillings, or imprisonment for a term not less than two month or both such fine and imprisonment;

Regulations. 24.(1) The Minister may make regulations for better carrying out of the provisions of this Act.

(2) Without prejudice to the provisions of subsection (1) of this section, the Minister may make regulations to provide for:-

- (a) standards and format of all documents to be used or registered under relevant laws;
- (b) registration forms;
- (c) fees and charges;
- (d) access of information kept by the Agency; and
- (e) any other matter which the Minister may deem necessary.

Consequential Amendment. 25. The relevant laws shall have effect with such modifications as may be necessary to give effect to this Act.



Savings.

26. Any officer serving the Agency prior to the commencement of this Act, shall, unless his appointment is terminated, continue to hold his respective post as if he was appointed under the provisions of this Act.

SCHEDULE

Relevant laws

1. The Secured Transaction Act No. 4 of 2011.
2. The Zanzibar Industrial Property Act No. 4 of 2008.
3. The Societies Act No. 6 of 1995.
4. The Business Names Registration Decree Cap. 168.
5. The Companies Decree Cap. 153.
6. The Transfer of Properties Decree Cap. 150.
7. The Registration of Documents Decree Cap. 99.

PASSED in the House of Representatives of Zanzibar on 15th day of October, 2012.

{ YAHYA KHAMIS HAMAD }
CLERK OF THE HOUSE OF REPRESENTATIVES
ZANZIBAR