AN ACT TO ESTABLISH THE ZANZIBAR MICRO, SMALL AND MEDIUM INDUSTRIAL DEVELOPMENT AGENCY AND TO PROVIDE FOR THE FACILITATION OF PROMOTION AND DEVELOPMENT OF ZANZIBAR MICRO, SMALL AND MEDIUM INDUSTRIES AND OTHER MATTERS RELATED THEREWITH AND INCIDENTAL THERETO

ARRANGEMENT OF SECTIONS

SECTIONS **TITLE**

PART ONE
PRELIMINARY PROVISIONS

1. Short title and Commencement.
2. Application.
3. Interpretation.

PART TWO
ESTABLISHMENT OF THE MICRO, SMALL AND MEDIUM INDUSTRIAL DEVELOPMENT AGENCY ZANZIBAR

4. Establishment of the Agency.
5. Powers of the Agency.
6. Seal of the Agency.
7. Functions of the Agency.

PART THREE
MANAGEMENT AND ADMINISTRATION OF THE AGENCY

8. Appointment of Director General of the Agency.
9. Functions of the Director General.
10. Staff of the Agency.
11. Board of Directors.

12. Tenure of the Board members.

13. Proceedings of the Board Meetings.

14. Resignation of Board member.

15. Vacancy of a member

16. Secretary of the Board.

17. Allowance to members.

18. Powers of the Board.

19. Functions of the Board.

20. Committees of the Board.

21. Prohibition of publication or disclosure of information to unauthorized person.

22. Funds of the Agency.

23. Estimates.

PART FOUR
MICRO, SMALL AND MEDIUM INDUSTRIAL DEVELOPMENT FUND.

24. Micro, Small and Medium Industrial Development Fund.

25. Administration of the Fund.

26. Expenditure of the Fund.

27. Statement of accounts.



PART FIVE
FINANCIAL PROVISIONS

28. Annual and supplementary budget.

29. Audit of Accounts.

30. Annual Report of the Director General.

PART SIX
MISCELLANEOUS PROVISIONS

31. Minister to give Policy directives to Board.

32. Registration of Micro, Small and Medium Industries.

33. Offences and penalties.

34. Immunity.

35. Regulations.

SCHEDULE

ACT NO. 2 OF 2018

I ASSENT



{DR. ALI MOHAMED SHEIN}
PRESIDENT OF ZANZIBAR AND CHAIRMAN OF
THE REVOLUTIONARY COUNCIL

2nd January, **2018**

AN ACT TO ESTABLISH THE ZANZIBAR MICRO, SMALL AND MEDIUM INDUSTRIAL DEVELOPMENT AGENCY AND TO PROVIDE FOR THE FACILITATION OF PROMOTION AND DEVELOPMENT OF ZANZIBAR MICRO, SMALL AND MEDIUM INDUSTRIES AND OTHER MATTERS RELATED THEREWITH AND INCIDENTAL THERETO

ENACTED by the House of Representatives of Zanzibar.

PART ONE
PRELIMINARY PROVISIONS

Short title and Commencement.

1. This Act may be cited as the Zanzibar Micro, Small and Medium Industrial Development Agency Act, 2017 and shall come into force immediately after being assented to by the President.

Application.

2. This Act shall apply to the promotion and development of the Micro, Small and Medium Industries in Zanzibar.

Interpretation.

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

"Board" means the Board of Directors established under section 11 of this Act;

"business" in relation to a Medium, Small or Micro Enterprise, means a business enterprise in relation to manufacturing, processing, extraction, production, agriculture, agro-processing, tourism, wholesale and retail trade, service industries, cottage or home-based industries, export and other industrial or commercial activities;

"Enterprise or industry" means any going concern by a group of persons, an individual or entity which trades in, or produces, goods or services for profit;

"Director General" means the Director General of Agency who is appointed under section 8 of this Act;

"medium enterprise or industry" means any enterprise or industry which has total assets worth not less than Tanzania shillings fifty seven million (TZS 57,000,000) but not exceeding Tanzania shillings six hundred and fifty million (TZS 650,000,000) or has not less than twenty but not more than ninety nine employees;

"micro enterprise or industry" means any enterprise or industry which has total assets worth not more than Tanzania shillings eleven million (TZS 11,000,000) or has not more than four employees;

"Ministry" means the Ministry responsible for industrial development;

"Minister" means Minister responsible for industrial development;

"Agency" means the Micro, Small and Medium Industrial Development Agency established under section 4 of this Act;

"President" means the President of Zanzibar and Chairman of the Revolutionary Council;

"private sector" means any person, or body or association of persons engaged in a business or any developmental efforts, operating in Zanzibar, of which the majority shareholder is not the Government;

"small enterprise or small industry" means any enterprise or industry which has total assets worth more than Tanzania shillings eleven million (TZS 11,000,000) but not exceeding Tanzania shillings fifty seven million (TZS 57,000,000) or has not less than five but not more than nineteen employees.

PART TWO
ESTABLISHMENT OF THE MICRO, SMALL AND MEDIUM INDUSTRIAL DEVELOPMENT AGENCY ZANZIBAR

Establishment of the Agency.

4.-(1) There is established a Government Agency to be known as the Micro, Small and Medium Industrial Development Agency in its Acronym SMIDA.

(2) The Agency shall be a semi-autonomous body of the Government by its nature and status and shall, subject to the approval to the Minister by its name, be capable to:

(a) take as collateral, purchasing or otherwise acquiring, holding, charging or disposing off movable and immovable property;

(b) enter into contracts and transactions subject to the laws; and

(c) do or perform all other effecient and necessary acts or things for the proper performance of its functions under this Act or any other law which may ordinary be done or performed by an institution of this kind.

Powers of the Agency.

5. The Agency shall have the power to:

(a) buy, take in exchange, hire, or otherwise acquire movable or immovable property necessary or convenient for the exercise of its functions;

(b) make contracts or give guarantees in connection with the exercise of its functions and to modify or rescind such contracts or guarantees;

(c) cooperate or enter into partnership or association with any person or association of persons carrying on or engaged in or about to carry on or engage in any business, enterprises or transaction capable of being conducted so as directly or indirectly to benefit the Agency;

(d) lend or advance money to, or acquire an interest in, to provide by underwriting or otherwise to assist in the subscription of capital for Micro, Small and Medium Enterprises;

(e) provide, or enter into agreements to provide, management counseling to person who, in the opinion of the Agency, are engaged or are about to engage in any industrial enterprise;

(f) provide or enter into agreements to provide, management training designed to meet the needs of industrial enterprises;

(g) employ staff, with the approval of the Board and upon such terms and conditions in accordance with the Public Service Act.

(h) pay such remunerations and allowances to its employees in accordance with Public Service Act.

Seal of the Agency.

6. There shall be an official seal of the Agency in shape and size as may be determined by the Board.

Functions of the Agency.

7. The functions of the Agency shall be to:

(a) design and implement Micro, Small and Medium Industrial Development support programs;

(b) promote the creation and development of Micro, Small and Medium Industries;

(c) advise, coordinate, monitor and evaluate activities of Micro, Small and Medium Industries;

(d) establish, operate or facilitate affordable credit schemes and other financial and non financial services for Micro, Small and Medium Enterprises;

(e) advise the Government on all matters relating to development of Micro, Small and Medium Industrial programs;

(f) coordinate and contribute in carrying out market research in goods manufactured and services provided by Micro, Small and Medium Industries;

(g) facilitate orderly and balanced development of Micro, Small and Medium Industries in the regions and villages through encouragement of utilization of locally available knowledge, skills and resources;

(h) improve competitiveness by providing technical assistance to persons engaged in Micro, Small and Medium Industries;

(i) provide and promote training facilities for persons engaged in employment or to be employed in Micro, Small and Medium industries;

(j) provide management and consultancy services to Micro, Small and Medium Industries;

(k) improve the standard and quality of the products through technology development and transfer, packaging, innovation and technical services;

(l) provide affordable and suitable working premises with well developed infrastructure including technology parks and stand alone buildings for manufacturing;

(m) facilitate Micro, Small and Medium Enterprises to access relevant equipment either through purchasing, leasing or franchising;

(n) provide technical services through mechanical and electrical workshop or tool rooms run by the Agency;

(o) facilitate national, regional and international market access for Micro, Small and Medium Industrial products and services;

(p) coordinate, harmonize and facilitate the integration of various public and private sector activities, programs and development plans relating to Micro, Small and Medium Industrial enterprises;

(q) propose incentives and proper tactics to the Minister for the facilitation on establishment and protection of Micro, Small and Medium Industry.

PART THREE
MANAGEMENT AND ADMINISTRATION OF THE AGENCY

Appointment of Director General of the Agency.

8.-(1) There shall be a Director General of the Agency to be appointed by the President.

(2) A person shall qualify for the appointment as a Director General if:

(a) he is a Zanzibari;

(b) holds at least University Degree or its equivalent from a recognized Institution in Engineering, Business Administration, Economics or Industrial Administration; and

(c) has at least five years experience in Micro, Small and Medium Enterprise development and entrepreneurship.

Functions of the Director General.

9. The Director General shall:

(a) be a Chief Executive Officer and responsible for directing and supervising the day-to-day affairs and general administration of the Agency;

(b) design, develop and implement strategies for the promotion of industrial entrepreneurship subject to the approval of the Board;

(c) collaborate with training institutions to develop training programs for industrial entrepreneurs;

(d) liaise with technical and financial intermediaries, Micro, Small and Medium Industries support agencies, government bodies, and regional and international development agencies to solicit technical and financial resources for the development of industrial programs after approval of the Board and Ministry of Finance;

(e) curb any problem which hinders the development of Micro, Small and Medium Industry subject to the approval of the Board.

Staff of the Agency.

10.-(1) The Board, upon recommendations of the Director General, may employ other staff of the Agency or hire service of consultant or expert as may be necessary for proper perfomance of the functions of the Agency.

(2) The recruitment of the staff under subsection (1) of this section, shall be made in acordance with the Public Service Act.

(3) The existing staff of the department shall continue to work and be deemed to be the staff of the Agency employed under the provisions of this Act.

(4) The Agency may, out of its funds, make such arrangements for the training of its staff, and other matters related thereto, as it may consider expedient for the efficient conduct of its functions.

Board of Directors.

11.-(1) There is established the Board of Directors of the Micro, Small and Medium Industrial Development Agency which shall be responsible for the general supervision of the functions of the Agency.

(2) The Board shall consist of the following members:

(a) Chairperson who shall be appointed by the President;

(b) Director General as an ex-officio member;

(c) one member each from the Ministries responsible for Industry, Vocational training and Empowerment of Micro, Small and Medium Enterprises and Entrepreneurs; and

(d) two members from private sector organizations dealing with development of Micro, Small and Medium Industry.

(3) The members referred to in subsections 2(c) and (d) of this section shall be appointed by the Minister in consultations with the respective institution.

(4) The Vice Chairperson shall be appointed by the Board from amongst the members of the Board.

Tenure of the Board member.

12.-(1) The Chairperson shall hold office for a term of four years from the date of his appointment and may be eligible for re-appointment for another term only.

(2) Save for ex-officio member, other members of the Board shall hold office for a period of three years from the date of appointment and may be elegible for re-appointment for another term.

Proceedings of the Board meetings.

13. The proceedings of the Board meetings shall be as prescribed in the Schedule of this Act.

Resignation of Board member

14.-(1) The Chairperson or any member of the Board may, at any time resign by giving notice in writting to the appointing authority, and from the date specified in the notice or if no date is so specified, from the date of receipt of the notice by the appointing authority, he shall cease to be a member.

(2) Where a person ceases to be a Chairperson or member of the Board as the case may be, for any reason before the expiration of his term of office, the appointing authority shall appoint another person in his place and the person so appointed shall hold office for the remainder of the term of office of his predecessor.

Vacancy of a member.

15.-(1) The office of a member shall become vacant:

(a) upon the member's death;

(b) if the member is absent without reasonable excuse for three consecutive meetings of the Board of which he had notice;

(c) on ceasing to be a representative of the institution which nominated that member;

(d) by resignation; or

(e) if he becomes incapacitated by reasons of physical or mental health to perform his duties.

(2) Subject to the provisions of this Act relating to quorum, the Board may continue with its business notwithstanding any vacancy in the members thereof and no act or proceedings of the Board shall be invalid by only reason of some defects in the appointment of a person who is purpoted to be a member thereof.

Secretary of the Board.

16.-(1) The Board shall appoint a legal officer with at least a first degree in Law and experience of not less than three years to be a Secretary of the Board.

(2) In addition to any other functions that may be conferred upon him by the Board, the Secretary shall be responsible to ensure that:

(a) he takes and keeps properly the accurate minutes of meetings of the Board;

(b) the correct and sufficient records of the Board are properly maintained;

(c) proper notifications of the meetings of the Board are given to the members;

(d) he provides the proper advice to the Board when so needed; and

(e) he performs any other matters as the Board may direct.

(3) Where the Secretary is absent or incapacitated by illness or due to any other cause is unable to perform his functions, the Board shall appoint any other employee of the Agency with relevant qualifications to perform the functions of the Secretary for the duration of the absence or incapacity until the Secretary returns to his post or vacancy in the office of the Secretary is filled.

Allowance to members.

17. The Chairperson, members of the Board or any Committee of the Board, shall be paid such allowances as provided under the Public Service Act.

Powers of the Board.

18.-(1) Subject to the provisions of this Act, the general supervision and policy guidelines with respect to the conduct of the functions of the Agency shall be vested to the Board.

(2) Without prejudice to the generality of the provisions of subsection (1) of this section, the Board shall have powers to:

(a) provide strategic guidance to the Agency in the discharge of its functions;

(b) supervise the functions of the Agency in relation to promotion, facilitation and enhancement of the development of Micro, Small and Medium Industries;

(c) approve reports of the Agency to be submitted to the Minister;

(d) supervise all movable and immovable properties, the Micro, Small and Medium Development Fund and other assets of the Agency;

(e) approve the annual and supplementary budgets, plans and guidelines of the Agency;

(f) determine fees and other charges to be levied for services offered by the Agency;

(g) ask for information or call for the record of any matter in relation to industrial entrepreneurship decided by the Agency; and

(h) take disciplinary measures against senior staff of the Agency in accordance with the Public Service Act.

Functions of the Board.

19.-(1) The functions of the Board shall be to promote and facilitate the development of Micro, Small and Medium Industries and to create a conducive environment for the attainment of that purpose.

(2) Without prejudice to the generality of subsection (1) of this section, the functions of the Board shall be to:

(a) give lawful instructions to the Director General in the management, performance and operational policies of the Agency;

(b) establish such organizational structure of the Agency in conformity with requirements of the Public Service Act and work procedures as may be considered necessary for smooth discharge of the functions and responsibilities of the Agency;

(c) to recommend, subject to the approval of the Public Service Commission, the terms and conditions of service, salaries, and other allowances including any other fringe benefits for the employees of the Agency;

(d) set strategies, action plans, objectives and appropriate work targets for each department of the Agency, and to monitor progress in achieving them on a continuous basis;

(e) determine, subject to the approval of the Minister, policy governing the operation of the Agency;

(f) consider, approve and monitor implementation of annual and quarterly budgets of the Agency;

(g) oversee the administration of the Micro, Small and Medium Industrial Development Fund;

(h) establish and supervise staff and financial Regulations;

(i) supervise and monitor implementation of functions of the Agency;

(j) advise the Government, through the Minister, on matters related to development of the Agency; and

(k) perform such other functions which are incidental to the functions of the Board.

Committees of the Board.

20.-(1) The Board may establish committees for the purpose of performing any of its functions under this Act, and may delegate its functions to any such committee as it considers appropriate.

(2) The Board may appoint members of a committee established under subsection (1) of this section among the members of the Board.

(3) The committees of the Board may co-opt any person to participate in their meetings, but the person so co-opted shall have no right to vote.

(4) Subject to any specific or general directives of the Board, any committee established under subsection (1) of this section may regulate its own procedures.

(5) The Board may, for the purpose of facilitating the performance of its functions, establish such number of committees to perform the specific functions as the Board may determine.

(6) The proceedings, terms and other matters relating to such committees so established, shall be as prescribed by the Board.

Prohibition of publication or disclosure of information to unauthorized person.

21.-(1) A member of the Board, staff of the Agency, any person invited to attend a meeting of the Board, or any committee of the Board shall not, without the consent in writing given by or on behalf of the Board, publish or disclose to any person, otherwise than in the course of that person's lawful duties, the contents of any document, communication or information, whatsoever, which relates to, and which has come to that person's knowledge in the course of that person's duties under this Act.

(2) A person who contravenes the provisions of subsection (1) commits an offence, and upon conviction shall be liable to a fine of not less than one million and not exceeding five million shillings or to imprisonment for a period of not less than six months but not exceeding two years, or to both.

Funds of the Agency.

22. The funds of the Agency shall consist of:

(a) monies appropriated each year by the House of Representatives;

(b) grants, retention, loans and donations from the Government or any other person, Authority or organization subject to the approval of the Minister; and

(c) any other lawful money that may be received by or made available to the Agency.

Estimates.

23. The Director General shall prepare, before the beginning of each financial year, estimates of income and expenditure of the Agency for the next ensuing financial year and submit to the Minister, with the approval of the Board, for inclusion in the annual budget of the Ministry.

PART FOUR
MICRO, SMALL AND MEDIUM INDUSTRIAL DEVELOPMENT FUND

Micro, Small and Medium Industry Development Fund.

24.-(1) There is established the Micro, Small and Medium Industrial Development Fund for supporting the development of the Micro, Small and Medium Industrial sub-sector subject to the approval of the Minister responsible for finance.

(2) The Fund established under subsection (1) of this section shall be applied to support the development of the Micro, Small and Medium Industries.

(3) The sources of the Fund shall consist of:

(a) monies appropriated each year by the House of Representatives;

(b) grants, retention, loans and donations from the Government or any other person, Authority or organization subject to the approval of the Minister; and

(c) any other lawful money that may be received by or made available to the Agency.

Administration of the Fund.

25.-(1) The Fund shall be vested in the Board of the Agency and administered by the Director General in accordance with such directives as the Board may issue from time to time.

(2) The Minister may make regulations to establish criteria for the application and disbursement of funds from the Fund.

Ecpenditure of the Fund

26. The Fund shall be applied for:

(a) research towards promotion and development of Micro, Small and Medium Industries;

(b) the acquisition of land, equipment, materials and other assets and the construction of buildings in order to promote the objects of the Fund;

(c) provision of affordable and suitable working premises with well developed infrastructure including technology parks and stand alone buildings for manufacturing;

(d) provision of technical services through mechanical and electrical workshop or tool rooms run by the Agency;

(e) establish, operate or facilitate affordable credit schemes and other financial and non financial services for Industrial development;

(f) provision of loans or grants to any organisation which, in the opinion of the Board, exists to promote the establishment or development of processing and manufacturing activities;

(g) facilitation of Micro, Small and Medium Industries to access relevant equipment either through purchasing or leasing or franchising;

(h) meeting any expenses arising from the establishment and maintenance of the Fund;

(i) any purpose which, in the opinion of the Board, is likely to promote the establishment and development of industrial entrepreneurship.

Statement of accounts.

27. The Board shall, within six months after the end of financial year, prepare or cause to be prepared annual audited statements of accounts with respect to the Micro, Small and Medium Industrial Development Fund which shall be laid before the Minister.

PART FIVE
FINANCIAL PROVISIONS

Annual and supplementary budgets.

28.-(1) The Board shall pass a detailed annual budget and the amounts expected to be received and to be disbursed by the Agency in a financial year, not less than two months before the beginning of that financial year.

(2) Where, in any financial year, the Agency requires to make any disbursement not provided for in the annual budget for that year, the Board shall at a meeting, consider a supplementary budget detailing the disbursement and submit the same to the Minister for approval.

(3) Where the Board has approved an annual budget or a supplementary budget, the budget or supplementary budget as the case may be, shall be binding on the Agency and the Agency shall confine the disbursement within the items and amounts contained in the approved budget.

Audit of Accounts.

29.-(1) The Agency shall keep or cause to be kept the proper books of accounts and records with respect to:

(a) the management of the Micro, Small and Medium Industrial Development Fund;

(b) the receipts and expenditures of money by, and financial transactions of the Agency;

(c) the assets and liabilities of the Agency; and

(d) a balance sheet showing the details of the income and expenditure and all assets and liabilities of the Agency every financial year.

(2) The Fund shall be audited every financial year by the Controller and Auditor General or any auditor appointed by the Controller and Auditor General.

(3) The Controller and Auditor General or any auditor appointed by the Controller and Auditor General, within three months of close of each financial year, will audit the accounts including the balance sheet of the Agency in respect of that financial year.

(4) The audited accounts shall be submitted to the Board and if adopted by the Board, shall be endorsed with a certificate that it has been so adopted.

(5) As soon as the accounts of the Agency have been audited, and in any case not later than six months after the close of the financial year, the Board shall submit to the Minister, a copy of the audited accounts together with a copy of the report on the statement made by the Auditor.

Annual Report of the Director General.

30. The Director General shall, at the end of each financial year, prepare a report on activities of the Agency and submit that report to the Minister after approval by the Board.

PART SIX
MISCELLANEOUS PROVISIONS

Minister to give Policy directives to Board.

31. Subject to the provisions of this Act, the Minister may give general policy directives to the Board about the operations of the Agency or for the proper carrying out of its functions or the functions and goals of the Agency.

Registration of Micro, Small and Medium Industries.

32. A person who undertakes an industrial enterprise in Zanzibar shall be registered according to the law relating to the Business Entity Registration.

Offences and penalties.

33.-(1) A person who furnishes the Minister, a member of the Board or any committee of the Board or the Director General with any information or explanation knowing it to be false, commits an offence.

(2) A person who fails to comply with any order or demand lawfully made under this Act, commits an offence.

(3) A person who obstructs a member of the Board, a member of a committee of the Board, or a staff of the Agency in the exercise of that member's functions under this Act, commits an offence.

(4) A person who contravenes any provision of this Act, commits an offence.

(5) A person who is convicted of an offence under subsections (1), (2), (3) or (4) of this section, is liable to a fine of not less than one million Tanzania shillings but not exceeding three millions Tanzania shillings, or to imprisonment for a term not exceeding one year or to both.

(6) Any person having information which to that person's knowledge has been published or disclosed in contravention of subsection (1) of this section, unlawfully publishes or communicates any such information to any other person, commits an offence, and upon conviction, shall be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding six months, or to both.

Immunity.

34. Any thing done or omitted to be done by any member of the Board or an officer of the Agency shall not, if that act is done or omitted to be done bona fide in the execution of the functions under this Act, render that member or officer personally liable for that matter or thing.

Regulations.

35. The Minister may, in consultation with the Board, make regulations prescribing:

(i) all matters which by this Act are required or permitted to be prescribed;

(ii) any forms for the purposes of the implementation of this Act;

(iii) any fees payable in respect of any service provided by the Agency; or

(iv) Any other matters which are necessary or expedient for the proper carrying out of the provisions of this Act.

SCHEDULE
PROCEEDINGS OF THE BOARD
(Made under section 13)

Meetings of the Board.

1.-(1) The Board shall meet ordinarily once in every three months and may meet at any time when the need arises for the discharge of its business.

(2) All meetings of the Board shall be presided over by the Chairperson or in his absence by the Vice Chairperson.

(3) The Chairperson or in his absence, the Vice Chairperson, shall convene a special meeting of the Board upon a request in writing signed by more than half of the members of the Board and shall cause such a meeting to be held within twenty one days of receiving such request.

(4) In the absence of both Chairperson and Vice Chairperson, the members present shall elect one amongst the members to preside the meeting, and the member so elected shall exercise all the powers and perform all the duties of the Chairperson.

Quorum of the meeting.

2. More than half of the total number of members shall constitute a quorum at any meeting of the Board.

Decisions of the Board.

3.-(1) The Board shall make its decision by consensus and in the event of disagreement, the decision shall be reached by voting and in case of any equality in the votes, the Chairperson or Vice Chairperson shall have a casting vote.

(2) Notwithstanding the provisions of subsection (1) of this section, decisions may be made by the Board by circulation of papers to the members whereby each member shall express his views in writing, provided that any member may require that such decision be deferred for discussion at a full meeting of the Board.

(3) A circular resolution in writing signed by all members for the time being in Zanzibar but who shall not be less than five members, shall be as effectual as a decision made at a meeting provided that a member may require, notwithstanding the members' signature, the matter be brought at the following Board meeting.

Co-opting of person in the Board.

4. The Board may co-opt any person to attend any deliberations of the meeting of the Board as an expert but such person so co-opted shall not have the right to vote.

Minutes of meetings of the Board.

5. The minutes of all proceedings of each meeting of the Board shall be confirmed by the Board at its next meeting and signed by the Chairperson of the meeting and Secretary of the Board.

Procedures of meetings.

6. Subject to the provisions of this Act, the Board shall have power to regulate its own procedures in respect of the meetings and the proper conduct of its business including committees of the Board.

Declaration of conflict of interest.

7. Any member, who has a direct or indirect interest in any agenda or matter being deliberated by the Board, shall declare the nature of his interest to the Board and shall not participate in the deliberation of that agenda or matter.

PASSED by the House of Representatives of Zanzibar on 7th December, 2017.

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(RAYA ISSA MSELLEM)

Clerk of the House of Representatives of Zanzibar.