

ACT NO. 1 OF 2008

I ASSENT

**(AMANI ABEID KARUME)
PRESIDENT OF ZANZIBAR
AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

12th March, 2008

AN ACT TO AMEND THE LAND TRIBUNAL ACT, NO. 7 OF 1994

ENACTED by the House of Representatives of Zanzibar

**PART I
PRELIMINARY PROVISIONS**

- Short title and commencement. 1. This Act may be cited as the Land Tribunal (Amendment) Act, 2008 and shall come into operation immediately after being assented to by the President.
- Construction. 2. This Act shall be read as one with the Land Tribunal Act, No. 7 of 1994 (in this Act shall be referred to as the "Principal Act").
- Amendment of section 2. 3. Section 2 of the Principal Act is hereby amended as follows:
- (i) by repealing the definition of the words "Chief Justice" and "Land Tribunal" and replacing with the following new definitions as follow:

“Chief Justice” means the Chief Justice of the High Court of Zanzibar;

“Land Tribunal” means the Land Tribunal established under section 3 of the Principal Act to hear land disputes;

(ii) by adding definition of the new words as follows:

“applicant” means a person who has submitted an Application to the Land Tribunal;

“Chief Clerk” means the officer in charge of the tribunal responsible to keep records of the tribunal;

“Decree holder” means any person in whose favor a decree of the tribunal has been passed or an order of the tribunal capable of execution has been made;

“High Court” means the High Court of Zanzibar;

“Judgment debtor” means any person against whom a decree has been passed or an order capable of execution has been made;

“Magistrate” means a person who holds a post of Regional Magistrate and shall include Magistrate of the Land Tribunal:

“Panel of the Land Tribunal” means a panel of the Land Tribunal presided by Chairman or Deputy Chairman or Magistrate sitting with two Assessors;

“Petition” means the Application filed by the person making a claim;

“Petitioner” means a person who filed a petition;

“Respondent” means the person who replies to the petition or other proceedings;

“Reply” means the papers filed by the respondent replying to the petition;

“Surveyor” means an impartial person experienced and certified by the Director responsible for land matters to be a surveyor;

“valuer” means an impartial person experienced and certified by the Director responsible for land matters to be a valuer;

“Zanzibari” means as defined under section 3(1) of the Zanzibari Act, No. 5 of 1985.

PART II GENERAL PROVISIONS

Amendment
of section 3.

4. Section 3 of the Principal Act is hereby amended as follows:

(i) in subsection (1) by adding “s” in the word Tribunal;

(ii) in subsection (2) by deleting the words “District” and “on any island” and substituting for the words “Region” and “of Zanzibar”.

Repeal and
replacement
of section 4.

5. Section 4 of the Principal Act is hereby repealed and replaced by the following new section 4 as follows:

*Appoint-
ment of
Chairman,
Deputy
Chairman,
Magistrates
and
Assessors.*

“4.(1) There shall be a Chairman of the Land Tribunal who shall be appointed by the President after consultation with the Chief Justice, and who shall serve for three years and may be reappointed for another term of three years.

(2) There shall be two Deputy Chairmen of the Land Tribunal one for Unguja and another for Pemba, appointed by the Judicial Service Commission.

(3) There shall be Magistrates of the Land Tribunals for Unguja and Pemba who shall be appointed by the Judicial Service Commission.

(4) There shall be Assessors who shall sit on the Land Tribunal and who shall be appointed by the Chief Justice in consultation with the Chairman of the Land Tribunals.

(5) The Chairman of the Land Tribunal shall be the Chief Administrative officer of the land Tribunal.

(6) The Chairman or Deputy Chairman or Magistrate or Assessor may be dismissed from service by the Authority appointed him at any time after receiving a clear evidence of any abuse of powers and before dismissal, shall be given a chance to raise his defense".

Amendment
of section 5.

6. Section 5 of the Principal Act is hereby amended as follows:

(i) In subsection (1) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman";

(ii) In sub section (2) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman" and deleting the words "as an ordinary employee of the Judiciary Department".

Amendment
of section 6.

7. Section 6 of the Principal Act is hereby amended as follows:

(i) In sub section (1) by repealing the opening words and replacing with the followings:

“(1) A person shall be qualified to be appointed as Chairman or Deputy Chairman if he has the following qualifications;”

(ii) In subsection (1) paragraph (b) by deleting that paragraph thereof and substituting for the following :

“(b) holds a Degree in Law and has an experience of not less than three years of service;”

(iii) In subsection (2) paragraph (a) by deleting that paragraph thereof and substituting for the following:

“(a) a Zanzibari residing at an area where the land dispute arose.”

Repeal and replacement of section 7.

Panel members.

8. Section 7 of the Principal Act is hereby repealed and replaced by the following new section 7 as follows:

“7. Chairman, Deputy Chairman or Magistrate of the Land Tribunal shall sit in all panels as the presiding person together with two Assessors resident in the Region where the dispute is being heard.

Repeal and replacement of section 9.

Chief Clerk.

9. Section 9 of the Principal Act is hereby repealed and replaced by the following new section 9 as follows:

“9.(1) There shall be a Chief Clerk and Deputy Chief Clerks of the Land Tribunal who shall be appointed by the Chairman in consultation with the Chief Justice.

(2) The Chief Clerk or Deputy Chief Clerks shall have the following qualifications:

- (a) he should be a Zanzibari;
- (b) he holds at least a Diploma in law;
- (c) has experience of at least two years.

(3) The Chief Clerk shall work in the Tribunals Principal venue of Zanzibar Town and Deputy Chief Clerks shall sit in each Region of Unguja and Pemba.

Amendment
of section 10.

10. Section 10 of the Principal Act is hereby amended in subsection (1) by deleting the word "District" and substitute for the word "Region".

Amendment
of section 11.

11. Section 11 of the Principal Act is hereby amended as follows:

- (i) In paragraph (g) by deleting the word "District" and substituting for the word "Region";
- (ii) In paragraph (h) by adding the word "are" after the word "tribunals".

Amendment
of section 13.

12. Section 13 of the Principal Act is hereby amended as follows:

- (i) in paragraph (a) by deleting the word "to" which appear after the word "right" and substituting for the word "of";
- (ii) by deleting paragraphs (c), (h), (m) and (r) ;
- (iii) in paragraph (d) by deleting the word "reviwed" and substituting for the

word "reviewed".

Amendment
of section 14.

13. Section 14 of the Principal Act is hereby amended by adding the word "re" before the word "conciliation" and by adding "or Deputy Chairman or Magistrate" after the word "Chairman".

Amendment
of section 15.

14. Section 15 of the Principal Act is hereby amended in subsections (1) and (2) by adding the word "or Deputy Chairman or Magistrate" after the word "Chairman".

Amendment
of section 16.

15. Section 16 of the Principal Act is hereby amended by adding the words "but in accordance with the rules of Civil Procedure Decree" after the word "informal".

Amendment
of section 18.

16. Section 18 of the Principal Act is hereby amended by deleting subsections (1) and (2) and renumbering section 18 as follows:

"18. On the day fixed for the respondent to appear and answer, the parties shall be in attendance at the Tribunal in person or by their respective advocates".

Amendment
of section 19.

17. Section 19 of the Principal Act is hereby amended in subsection (2) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman".

Amendment
of section 20.

18. Section 20 of the Principal Act is hereby amended by deleting subsection (1) thereof and substituting for the following:

"(1) The petition shall be filed at the office of the Clerk of the Land Tribunal in the Region where the Land in question is located, a petition must show what the petitioner claims and show the reasons of such claims".

Repeal and replacement of section 21.

19. Section 21 of the Principal Act is hereby repealed and replaced by the following :

“21.(1) The respondent shall file his reply showing what he admits or denies and show the reasons of such denial.

(2) The Clerk shall cause a copy of petition and reply to be delivered to the petitioner and respondent.”

Amendment of section 22.

20. Section 22 of the Principal Act is hereby amended by deleting the words “notice for judicial as provided in section 42” and substituting for the words” “notice of appeal as provided in section 41”.

Amendment of section 24.

21. Section 24 of the Principal Act is hereby amended by deleting subsections (2) thereof and substituting for the following:

“(2) If the last day of the time of service is not a working day then the time shall be extended to the next following working day”.

Amendment of section 25.

22. Section 25 of the Principal Act is hereby amended in subsections (1), (2) and (3) by deleting the words “statement of defense” and substituting for the word “reply”.

Amendment of section 26.

23. Section 26 of the Principal Act is hereby amended in subsections (1) and (2) by adding the words “or Deputy Chairman or Magistrate” after the word “Chairman”.

Amendment of section 28.

24. Section 28 of the Principal Act is hereby amended by adding the words “or Deputy Chairman or Magistrate” after the word “Chairman”.

Amendment of section 29.

25. Section 29 of the Principal Act is hereby amended as follows:

- (i) in the marginal note by deleting the word "conducting" and substitute for the word "conducting";
- (ii) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman";
- (iii) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman" in paragraph (c).

Amendment
of section 30.

26. Section 30 of the Principal Act is hereby amended in subsection (1) and (2) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman".

Amendment
of section 31.

27. Section 31 of the Principal Act is hereby amended as follows:

- (i) in subsection (1) by deleting the word "questionon" and substituting it for the word "question" and by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman";
- (ii) in subsection (2) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman" and by adding "s" in the word "day";
- (iii) in subsections (4), (5) and (6) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman";

Amendment
of section 32.

28. Section 32 of the Principal Act is hereby amended as follows:

- (i) in subsection (1) paragraphs (a) and (c) by adding the words "or Deputy Chairman or Magistrate" after the

- (ii) word "Chairman";
in subsections (2), (3) and (4) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman".

Amendment of section 33. 29. Section 33 of the Principal Act is hereby amended as follows:

- (i) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman";

- (ii) by adding "y" in the word "part";

Amendment of section 35. 30. Section 35 of the Principal Act is hereby amended by deleting the word "inervention" and substituting for the word "intervention".

Amendment of section 36. 31. Section 36 of the Principal Act is hereby amended as follows:

- (i) by deleting subsection (1) thereof and substituting for the following :

"(1) Evidence shall be submitted before the Land Tribunal in accordance with the provisions under the Evidence Decree Cap.5"

- (ii) in subsection (2) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman".

Amendment of section 37. 32. Section 37 of the Principal Act is hereby amended by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman".

Amendment of section 38. 33. Section 38 of the Principal Act is hereby amended by repealing subsections (2) and (3) and replaced by the following:

“(2) If an exparte judgment has been entered the respondent shall within (7) days apply to the Chairman or Deputy Chairman or Magistrate to hear the petition inter parties and shall state the reasons for such application.

(3) During the time where the respondent is applying for the petition to be heard inter parties, the Chairman or Deputy Chairman or Magistrate shall adjourn the proceedings until the application has been heard and determined”.

Repeal and replacement of section 39.

34. Section 39 of the Principal Act is hereby repealed and replaced by the following:

Enforcement and execution of a Judgment or Decree.

“39.(1) Enforcement and execution of any judgment or decree shall proceed in accordance with the provisions available under the rules of Civil Procedure Decree.

(2) A decree holder may, as soon as practicable after the pronouncement of a judgment or decree, applies before the Tribunal for the execution of a decree, such application shall be made as provided for under the rules of the Civil Procedure Decree.

(3) Where after the expiration of 14 days there is no application for stay of execution from the judgment debtor, the Chairman or Deputy Chairman or Magistrate, shall make execution order as prayed for by the decree holder.

(4) Where there is an application for stay of execution from the judgment debtor, the Chairman or Deputy Chairman or Magistrate shall require all parties to appear before the Tribunal for hearing and determination of the

application for stay of execution.

(5) The Chairman or Deputy Chairman or Magistrate shall, after hearing both parties, proceed to make an order for stay of execution, except that no order for stay of execution shall be made unless:

- (a) it is established to the satisfaction of the Chairman or Deputy Chairman or Magistrate that substantial and irreparable loss will result if the order is not made; or
- (b) security has been given by the judgment debtor to the performance of such decree."

Repeal and replacement of section 41.

35. Section 41 of the Principal Act is hereby repealed and replaced by the following :

"Appeal 41. Any party who is aggrieved by the decision of the Land Tribunals shall have the right to appeal to the High Court and such appeal shall be heard by a judge of the High Court."

Amendment of section 42.

36. Section 42 of the Principal Act is hereby amended in subsection (2) paragraph (a) by adding the words "or Deputy Chairman or Magistrate" after the word "Chairman".

PASSED by the House of Representatives on 24th day of January, 2008.

{ IBRAHIM MZEE IBRAHIM }
CLERK OF THE HOUSE OF REPRESENTATIVES
ZANZIBAR

THE LAND TRIBUNAL (AMENDMENT) ACT, 2008

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