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SUSTAINABLE DEVELOPMENT ACT, 1996



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*The Managing Editor, LEAD Journal, c/o International Environmental Law Research Centre (IELRC), International Environment
House II, 1F, 7 Chemin de Balexert, 1219 Châtellaine-Geneva, Switzerland, Tel/fax: + 41 (0)22 79 72 623, info@lead-journal.org*

THE ENVIRONMENTAL MANAGEMENT FOR SUSTAINABLE DEVELOPMENT ACT, 1996

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THE ENVIRONMENTAL MANAGEMENT FOR SUSTAINABLE DEVELOPMENT ACT, 1996

ACT NO. 2 OF 1996

I ASSENT

SALMIN AMOUR, PRESIDENT OF ZANZIBAR
AND CHAIRMAN OF THE REVOLUTIONARY
COUNCIL

18th July 1996.

AN ACT TO MANAGE THE ENVIRONMENT
FOR THE SUSTAINABLE DEVELOPMENT OF
ZANZIBAR AND MATTERS RELATED THERETO

ENACTED by the House of Representatives of Zanzibar

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PRELIMINARY PROVISIONS

1. This Act may be cited as the Environmental Management for Sustainable Development Act, 1996 and shall come into force upon assent by the President.

2. In this Act, unless the context requires otherwise –

‘Act’ means the Environmental Management for Sustainable Development Act, 1996 and all subsidiary legislation thereunder;

‘air’ includes air within a building, a vehicle or within any enclosure or structure;

‘biological diversity’ means the differences among and between living organisms and the differences within and between ecosystems;

‘community’ means a group of individuals and families directly associated with recognized area through residence and may include any local government institution established under applicable laws;

‘committee’ means a special committee of the Revolutionary Council on Environment established under section 9 of this Act as the final decision making body on environmental matters in Zanzibar;

‘Contingency plan’ means measures intended to be applied in the event of a spill or other environmental emergency;

‘Department of Environment’ means the body within the institution responsible for the environment which is directly responsible for day-today environmental management in Zanzibar;

‘Director’ means the Government officer directly responsible for exercising the functions and powers of the institution responsible for the environment by delegation and refers to the Director of the Department of the Environment appointed under section 16;

‘discharge’ includes release, deposit, emission and leakage;

‘dumping’ means any deliberate disposal of wastes or other matter from vehicles, vessels, aircraft, platforms or other manmade structures at sea;

‘ecosystem’ means the overall complex of living organism communities interacting with their surroundings;

‘effluent’ means waste water or any other liquid with or without particles of matter in suspension of domestic, agricultural, trade or industrial origin, treated or untreated, and discharged directly or indirectly into the environment;

‘environment’ means the natural resources surrounding human beings and the interactions among and between these resources and humans;

‘environmental emergency’ means an activity or result which threatens immediate or irreversible harm to the environment;

‘environmental officer’ means an officer designated under section 106;

‘handling’ means the manufacture, processing, treatment, packaging, storage, transportation, importation, use, collection, destruction, conversion, offering for sale, transfer or the like of a substance.

‘hazardous’ means likely to be poisonous, corrosive, irritating, noxious, explosive, inflammable, toxic or harmful to the environment by reason of characteristics handling, use, quantity, location or climatic conditions;

‘institution responsible for the environment’ means the institution designated under section 17 of this Act to be responsible for the environment;

‘institution responsible for the national protected areas system’ means the National Protected Areas Board established under section 84 to be responsible for the national protected areas system in Zanzibar;

‘institution responsible for nonrenewable natural resources’ means the institution designated under section 69 to be responsible for nonrenewable natural resources.

‘lead institution’ means any ministry, department, parastatal, agency, commission, authority or public officer in which or in who any law vests responsibilities for an environmental matter;

‘licensing institution’ means any ministry, department, parastatal, agency, commission, authority or public officer who approves an activity in Zanzibar by issuing a licence, permit, certificate or other similar document;

‘Minister’ means the Minister responsible for the environment, acting in that capacity;

‘National Environmental Standards’ means standards prescribed under section 63;

‘natural resources’ means living organisms, microorganisms and nonliving physical elements and –

‘nonrenewable natural resources’ includes stone, gravel, sand, lime, and other nonliving physical elements which do not have a sustainable replacement rate; and

‘renewable natural resources’ includes soil, water, air, plants, trees, animals, fish, coral, and other organisms and physical elements which have a sustainable replacement rate;

‘person’ means an individual whether acting in a public or private capacity, a group of individuals, a community, a juridical person, a Government institution or Government corporate body;

‘pollution’ means the presence in the environment of substances in such concentrations as are likely to harm the environment;

‘prescribed’ means as prescribed by the Act or any subsidiary legislation under the Act;

‘President’ means the President of Zanzibar and Chairman of the Revolutionary Council;

‘quality’ when referring to the environment, means the characteristics and capacities of the environment;

‘subsidiary legislation’ means any regulation, notice, rule, guideline, National Environmental Standard, code of good environmental practice or other similar instrument made in exercise of any power under this Act;

‘substance’ includes any natural or artificial substance, whether in solid, liquid or gaseous form, and any mixtures of substances, electricity and heat;

‘sustainable development’ means development that meets the needs of the present generation without compromising the ability of future generations to meet their needs;

‘trade’ includes import, export, re-export or other means of introduction into Zanzibar;

‘waste’ means garbage, refuse, sludges, construction debris and other substances discarded from industrial, commercial, domestic, individual, community or other activity;

‘water catchment’ means the area surrounding a water source whose waters replenish that source and converge to flow into the same river, lake or sea; and

‘water catchment management’ means the process of formulating and carrying out a course of action which uses resources in the water catchment to meet society’s needs without adversely affecting the condition of those resources.

3. This Act shall bind the Government.

2

GENERAL ENVIRONMENTAL OBLIGATIONS

4. Every person has a duty to promote the purposes of this Act which are
 - (a) maintain basic ecological processes of land, water and air;
 - (b) ensure the environmentally sound and healthy quality of life of the people of Zanzibar, present and future;
 - (c) promote the sustainable use of renewable natural resources;
 - (d) promote the rational use of nonrenewable natural resources;
 - (e) preserve the biological and cultural diversity of Zanzibar's lands and seas; and
 - (f) strengthen the institutional capabilities for protecting the environment.
5. In implementing the purposes of this Act, Government institutions in particular shall ensure that –
 - (a) public works are implemented in an environmentally sound manner; and
 - (b) all public work plans include among their priorities works which are aimed at overall environmental protection and improvement, including but not limited to –
 - (i) basic sanitation services;
 - (ii) drinking water supply;
 - (iii) affordable and reliable energy supply;
 - (iv) safe food; and
 - (v) accessible shelter.
- 6.-(1) Every person has a right to a clean and healthy environment.
 - (2) Every person has a duty to maintain and enhance that environment.
7. All renewable natural resources shall be used and managed in accordance with the principles of sustainable development, including –
 - (a) the quality and quantity of renewable natural resources and their surrounding ecosystems shall be sustained;
 - (b) disruptions to the existing interactions between natural resources, other environmental elements and ecosystems shall be minimized;
 - (c) unnecessary or harmful use or management of renewable natural resources shall be prevented;
 - (d) all injury to the general welfare and to the rights of persons, both present and future, shall be prevented or compensated;
 - (e) a resource which is suitable for various uses shall be used and managed in a way which preserves as many of those uses as possible;
 - (f) decisions to use renewable natural resources shall take into account the need for environmental conservation, the need to ensure sustainability, and the need to balance environmental economic and social costs and benefits;
 - (g) planning of renewable natural resource managements shall be participatory and integrated;
 - (h) the commercial exploitation of any renewable natural resource shall be carried out in accordance with the principle of optimum sustainable management; and
 - (i) uses of renewable natural resources in the public domain which are indispensable to meet basic daily living needs of individuals, families and communities and are compatible with these principles of sustainable development shall be guaranteed.
8. All nonrenewable natural resources shall be used and managed in accordance with the principles of sustainable development, including –
 - (a) the commercial exploitation of any nonrenewable natural resource shall be carried out rationally to conserve and recover the resource and the environment;

- (b) direct or indirect impacts of nonrenewable natural resource use on ecosystems, biological diversity and renewable natural resources shall be minimized and any impacts shall be addressed through environmental restoration;
 - (c) use of nonrenewable natural resources shall be minimized as appropriate in accordance with the overall need for sustainable development of the country;
 - (d) all injury to the general welfare and to the rights of persons, both present and future, shall be prevented or compensated;
 - (e) planning of nonrenewable natural resource management shall be participatory, integrated and balanced among environmental, economic and social costs and benefits; and
 - (f) uses of nonrenewable natural resources in the public domain which are indispensable to meet basic daily living needs of individuals, families and communities and are compatible with these principles of sustainable development shall be guaranteed.
- (2) More than half of the members of the Committee shall form a quorum at any meeting
 - (3) The Committee shall regulate its other proceedings as it deems fit.
12. The Committee shall –
- (a) resolve conflicts over environmental matters among Government and other institutions;
 - (b) make final decisions regarding all environmental matters referred to it under this Act;
 - (c) approve National Environmental Action Plans as prescribed under this Act; and
 - (d) provide advice, when requested, to the Cabinet and guidance to the Minister on overall environmental management in Zanzibar.
13. The Committee shall have the power to –
- (a) initiate inquiries and investigations about any allegation related to the environment and the implementation or violation of the provisions of this Act;
 - (b) require any person to provide information or explanation about any matter related to the environment to the institution responsible for the environment; and
 - (c) resolve conflicts among Government institutions about the respective functions, duties, mandates, obligations or activities under this Act.

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ADMINISTRATION

- 9.-(1) There is established a special committee of the Revolutionary Council on Environment, referred to as the Committee.
- (2) The Committee shall be the highest decision-making body on environmental matters in Zanzibar.
- 10.-(1) The Committee shall be chaired by the Chief Minister or a Minister designated as the representative of the Chief Minister.
- (2) The President shall appoint the members of the Committee.
 - (3) The Principal Secretary responsible for environment shall act as Secretary to the Committee.
- 11.-(1) The Committee shall meet whenever is deemed necessary.
14. The Minister shall give to any ministry, region or district directives necessary to implement the Committee's decisions.
- 15.-(1) Except as required under sections 39-62, information enquired by the Committee in the course of an inquiry or investigation under section 13 shall be considered confidential until the inquiry or investigation is complete.
- (2) When the inquiry or investigation has been completed, information shall be shared with the public and as required by a court of law.
- 16.-(1) There is established the Department of Environment within the institution responsible for environment which shall be headed by the Director.

- (2) The Director shall be appointed by the President.
- 17.-(1) The institution responsible for the environment shall be the Ministry, Department or Commission of the Government under the Minister responsible for the environment or a corporate body constituted under sub section (2) of this Section.
- (2) The President may by order published in the Official Gazette constitute and name an institution responsible for the environment which shall be a corporate body for the carrying out of the powers and functions under this Act as may be specified in the order.
- (3) Any corporate body constituted under subsection (2) shall –
- (a) have perpetual succession and a common seal;
 - (b) be capable in law of suing and being sued;
 - (c) subject to any applicable laws, be capable of holding, acquiring, purchasing and alienating land;
 - (d) be capable of disposing of any movable property; and
 - (e) be capable of doing and performing such acts and things as bodies corporate may by law do and perform, subject to the provisions of this Act and any other applicable law.
18. The institution responsible for the environment may appoint such other officers and staff as it may consider necessary for the efficient discharge of its duties.
- 19.-(1) The institution responsible for the environment shall perform the following function –
- (a) formulate, advise on and, in collaboration with other bodies, implement the policies of the Government on the protection and management of the environment;
 - (b) coordinate the activities related to the environment of all persons in the Government;
 - (c) ensure that environmental concerns are integrated into national development planning and project implementation in a way which protects the environment;
 - (d) regularly monitor implementation of the environmental policies by sectoral and non-sectoral institutions and recommend conflict resolution measures to the institutions concerned and, if necessary, to the Committee;
 - (e) in collaboration with other institutions, evaluate existing and proposed policies and legislation and recommend measure to ensure that those policies and legislation take adequate account of effects on the environment;
 - (f) specify standards, norms and criteria for the protection of the environment;
 - (g) manage and regulate environmental impact assessment requirements and procedures in accordance with the provisions of this Act;
 - (h) conduct, commission and approve research on any aspect of the environment, including proposals for legislation relating to the environment, and submit recommendations and reports based on the results of its research to the institutions concerned and, if necessary, to the Committee;
 - (i) promote public awareness of environmental issues through education programmes and the dissemination of information;
 - (j) coordinate the monitoring of trends in the use of natural resources and their impact on the environment overall;
 - (k) establish and operate a system of documentation and dissemination of information relating to the environment;
 - (l) prepare and coordinate the implementation of environmental action plans at the national and local levels as required under this Act;
 - (m) coordinate the preparation and implementation of community environmental management plans and integrated coastal area management plans provided under this Act;
 - (n) facilitate public participation to fulfil the purposes of this Act by empowering and encouraging people to protect their environment;

- (o) recommend to the Minister, from time to time, international or regional agreements to which Tanzania should become party;
 - (p) refer to the Committee any matter related to the purposes of this Act; and
 - (q) carry out such other functions as are necessary to fulfil the purposes of this Act.
- (2) For the purpose of carrying out its functions and notwithstanding the National Security and Official Secrets Act, the institution responsible for the environment may establish and maintain a system of collaboration and consultation with any person or institution within or outside Tanzania which has the same objective regarding environment in general.
20. The institution responsible for the environment shall have all the powers necessary to fulfil its functions, including but not limited to the power to –
- (a) require any person to provide information or explanation about any matter related to the environment;
 - (b) convene a special advisory committee under section 22 of this Act;
 - (c) initiate legal proceedings against any person; or
 - (d) issue a stop order or default notice in accordance with sections 23 and 24 of this Act.
- 21.-(1) The Minister may delegate in writing any powers except the power to appoint prosecutors.
- (2) Delegation of the power to appoint prosecutors shall take place only in accordance with section 113.
 - (3) Delegation of a power under this section may be made to any qualified person whether or not employed by the institution responsible for the environment.
22. The institution responsible for the environment through the Director may appoint a special advisory committee composed of relevant interested persons for such time and under such mandate as needed to address an environmental emergency.
- 23.-(1) The institution responsible for the environment through the Director shall immediately give a notice of default with a deadline to any person who is responsible for an existing or proposed action or result which violates this Act.
- (2) If the violation has not ceased by the default deadline, the institution responsible for the environment through the Director shall –
 - (a) issue a stop order in writing; and
 - (b) put an appropriate mark at the site of the default to show that a stop order has been issued.
 - (3) If a stop order is not observed, the institution responsible for the environment through the Director may, without any further notice, take any appropriate measures to mitigate or remedy the environmental harm and the institution responsible for the environment through the Director shall be entitled to recover the cost of such measures under section 101 of this Act.
 - (4) A person who fails to observe a stop order commits an offence under section 100 of this Act.
- 24.-(1) If an existing or proposed action contravenes the provisions of another Act related to the environment and the officers authorized to enforce that Act have not so acted, then the institution responsible for the environment through the Director may give a notice of default with a deadline to that responsible institution.
- (2) If that responsible institution has not cured the default by the deadline, the institution responsible for the environment through the Director shall refer the matter to the Minister.
25. In the event of an environmental emergency, the institution responsible for the environment through the Director shall have the power to do any of the following by itself or in combination with the others –
- (a) convene a special advisory committee under section 22 of this Act;
 - (b) initiate legal proceedings against any person; or
 - (c) issue a stop order or default notice in accordance with sections 23 and 24 of this Act.

- 26.-(1) The implementation by the institution responsible for the environment of its functions under this Act shall not release any lead institution from performing its duties as established by law.
- (2) Each lead institution shall continue to perform its duties as prescribed in any law provided that such law does not conflict with the provisions of this Act.
- (3) If a conflict exists among legal mandates –
- (a) the provisions of this Act shall prevail; and
- (b) the conflict shall be referred to the Committee whose decision shall be final.
- 27.-(1) Any Government institution may establish a Technical Environmental Unit to –
- (a) incorporate environmental criteria into that institution's respective policies, plans, programmes, projects and activities;
- (b) implement the Act;
- (2) A Technical Environmental Unit shall –
- (a) consist of any number of professional personnel with multidisciplinary education or experience, including at least one legal officer; and
- (b) be budgeted in each Government institution's budget.
- (3) Until an institution establishes a Technical Environmental Unit under subsection (1), the Department of Environment shall function as that institution's Technical Environmental Unit.
28. The Minister, on the recommendation of the Director, may propose to the Government for inclusion in the annual budget proposals:
- (a) tax incentive to promote the protection of the environment and the prevention or abatement of pollution;
- (b) user fees to ensure that those who use environmental resources pay the proper value of such utilization; and
- (c) tax disincentives to deter the unsustainable use of environmental resources or to prevent the generation of pollutants.
- 29.-(1) The National Environment Fund for Sustainable Development is established (referred to as the 'Fund').
- (2) The Fund shall comprise –
- (a) those amounts appropriated by the House of Representatives for the purposes of the Fund;
- (b) all amounts collected from administrative measures imposed under this Act except as otherwise designated under section 87(2)(b);
- (c) up to fifty percent (50%), as prescribed by notice in the Official Gazette, of all amounts collected from penal fines imposed on violators of this Act except as otherwise designated under section 87(2)(c);
- (d) all amounts received by the Fund as voluntary contributions;
- (e) all amounts or assets donated for the purposes of the Fund by any foreign government, international agency or foreign institution or body;
- (f) any amount posted and forfeited as an environmental performance bond under section 112; and
- (g) any other amount as prescribed by notice in the Official Gazette.
- (3) The Minister in consultation with the Minister responsible for finance shall prescribe any amounts under subsections (2)(c) and (2)(g) by notice in the Official Gazette.
- (4) The Fund shall vest in the institution responsible for the environment and, subject to this Act, shall be administered in accordance with its directions.
- 30.-(1) The purpose of the Fund is to implement this Act by protecting enhancing and managing the environment in Zanzibar in accordance with this Act's provisions.
- (2) Any money not immediately disbursed by the Fund to support activities for its purpose shall be invested in such manner as the institution responsible for the environment, after consulting with the Minister responsible for finance, shall determine.

(3) The institution responsible for the environment shall draw up standing orders, policies and procedures for disbursement of Fund monies only in accordance with the Fund's purpose.

(4) All monies received shall be paid into a banking account and withdrawn only by cheques signed by authorized persons.

31. The institution responsible for the environment shall ensure that proper books and other records of account in respect of receipts and expenditure of the Fund are kept in accordance with the Treasury's instructions.

(1) within six months after each financial year has ended, the institution responsible for the environment shall submit to the Minister a report concerning the Fund's activities during the financial year.

(2) The report on the Fund shall include –

- (a) an audited balance sheet;
- (b) an audited statement of income and expenditure;
- (c) such other financial information as the Minister may require.

(d) assist in the determination of priorities for action regarding the environment; and

(e) promote the development of a national awareness of the importance of the efficient, sustainable and equitable use and management of the environment.

(3) The National Environmental Action Plan shall be approved by the Committee and shall be laid before the Revolutionary Council for information.

33.-(1) The institution responsible for the environment through the Director shall prepare a local environmental action plan when environmental problems which require special localized planning are identified, especially those which threaten likely harm to –

- (a) Zanzibar's biological diversity; or
- (b) An ecosystem such as a coastal area or water catchment.

(2) Any person has the right to petition the Director, identifying a problem which requires the preparation of a local environmental action plan.

(3) A local environmental action plan shall be approved by the Minister.

34.-(1) Each environmental action plan prepared under sections 32 and 33 shall –

(a) be prepared through appropriate public participation and in collaboration with other concerned institutions;

(b) take into account other relevant national and subnational plans and be harmonized with them to the extent that they are consistent with this Act;

(c) be harmonized with existing community environmental management plans prepared under section 35;

(d) cover all matters relating to the environmental problem;

(e) contain guidelines for the management and protection of the environment;

(f) prescribe strategies for preventing, controlling or mitigation any adverse effects on the environment; and

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PLANNING

32.-(1) The institution responsible for the environment through the Director shall prepare a National Environmental Act Plan every five years or such other lesser period as may be considered necessary.

(2) The National Environmental Action Plan shall –

- (a) identify the principal environmental problems facing Zanzibar;
- (b) provide a framework for integrating environmental concerns into plans and programmes for the development of Zanzibar;
- (c) identify strategies for preventing, controlling or mitigating any adverse impacts on the environment;

- (g) designate the appropriate person or persons to carry out the prescribed strategies.
- (2) Once approved, an environmental action plan prepared under sections 32 and 33 shall –
- (a) be published in a appropriate manner to provide notice to other persons; and
 - (b) bind all persons and the Government.
- 35.-(1) Notwithstanding sections 36, 37 and 38, any community may make its own environmental management plan for the area in which the community located and whose boundaries are determined by agreement between the community and the Director.
- (2) Any community environmental management plan made under this section shall –
- (a) identify the community, its members and its area and the procedure for determining these matters;
 - (b) describe the environment affected by the plan and the management measures to be implemented;
 - (c) be prepared through participation of appropriate Governmental and nongovernmental persons;
 - (d) allocate costs and benefits of environmental management in an equitable manner;
 - (e) identify an appropriate mechanism for the community's approval of variances to the plan;
 - (f) be approved by the Minister through the Director;
 - (g) be reviewed and modified from time to time to take into account emerging knowledge and realities; and
 - (h) be published in an appropriate manner to provide notice to other persons.
- (3) A plan made under this section shall be binding on all persons who use the environment in the defined area.
- (4) A plan made under this section may be varied only by the community's decision made through –
- (a) the mechanism identified in subsection (2)(e) which ensures that the community approves the variance;
 - (b) the same procedure prescribed under subsection (2); or
 - (c) mediation by a special environmental mediator appointed under section 116.
- (5) The institution responsible for the environment shall provide technical assistance to any community wishing to prepare a community environmental management plan under this section.
- (6) By-laws made under section 37 of the Zanzibar Municipal Council Act, 1995 and section 5 and 31 of the District and Town Councils Act, 1995 shall reflect any measures prescribed in a community environmental management plan which applies to that area in whole or in part.
- (7) A community shall be consulted and has the right to participate, through a designated representative, in development decisions for sites inside and outside its boundaries which may affect its area.
- (8) A community's specific plan to manage a natural resource (an) other sector of its environment covered by other laws of Zanzibar shall be considered a community environmental management plan under this Act if it has been –
- (a) prepared under procedures equivalent to those prescribed under section 35(2) of this Act; and
 - (b) approved by the administrator responsible for that resource of sector.
- (9) For the purpose of this section, 'administrator' means the officer who holds a position and exercises functions equivalent to those of the Director under this Act.
36. -(1) The Minister,
- (a) on the recommendation of the Director;
 - (b) in collaboration with the responsible institutions; and
 - (c) in consultation with the users of the coastal environment,

may by order published in the Official Gazette declare one or more Coastal Areas for integrated multisectoral planning.

(2) An area comprising land and sea may be declared a Coastal Area under subsection (1) if it has –

- (a) definable geographical boundaries;
- (b) significant environmental value; and
- (c) intensive human activity of significant economic and social value.

37.-(1) The institution responsible for the environment shall coordinate the surveying of the Coastal Area and the preparation of an Integrated Coastal Area Management Plan based on the survey.

(2) Each Coastal Area Survey under this Section shall:

- (a) be carried out in collaboration with the public and responsible institutions;
- (b) describe the Coastal Area and its boundaries;
- (c) (provide an) inventory (of) the coastal environment of the Coastal Area;
- (d) identify uses and users of the Coastal Area; and
- (e) include any other relevant matters as prescribed.

(3) Each Integrated Coastal Area Management Plan under this section shall

- (a) be prepared through appropriate public consultation and in collaboration with other responsible institutions;
- (b) be consistent with the goals of existing environmental action plans prepared at the national and local levels in accordance with this Act;
- (c) take into account other relevant national and subnational plans, especially those which apply to natural resources in the Coastal Area, and be harmonized with those plans to the extent that they are consistent with this Act;
- (d) be harmonized with existing community environmental management plans prepared under section 35;

(e) allocate the costs and benefits of integrated coastal area management in an equitable manner;

(f) designate institution(s) to prepare and implement contingency plans;

(g) reconcile existing uses of the coastal environment;

(h) be reviewed on a continual basis; and

(i) designate an appropriate mechanism through which integrated coastal area management will be implemented in the Coastal Area.

(4) Any person has the right to petition the Minister to declare a Coastal Area and prepare an Integrated Coastal Area Management Plans under sections 36 and 37.

5

ENVIRONMENTAL IMPACT ASSESSMENT

38.-(1) No person shall undertake any activity which is likely to have a significant impact on the environment without an EIA certificate issued under this Act.

(2) No licensing institution shall issue a licence, permit, certificate, or other form of approval for an activity which is likely to have a significant impact on the environment unless an EIA certificate has been issued for the activity.

(3) Any person who violates this section commits an offence under section 95.

(4) For the purposes of this Part, 'undertake' means initiate, carry forward, execute, implement, develop, operate or other similar action.

39.-(1) Any person, including a Government institution, who wishes to undertake an activity as specified under section 38 shall submit to the institution responsible for the environment a report stating concisely –

- (a) the nature of the activity;
 - (b) the activities to be undertaken, including a description of the production process, where applicable;
 - (c) proposed location (size of site, description, current uses, use of adjacent areas);
 - (d) quantities of raw materials and other inputs required, including water requirements and chemicals to be used;
 - (e) the number of people to be employed;
 - (f) anticipated products and by-products;
 - (g) anticipated waste products (solid, liquid, gaseous), quantities of each, proposed methods of treatment and disposal; and
 - (h) any other matters as may be prescribed.
- (2) As soon as practical, the institution responsible for the environment shall review the report required under subsection (1) and shall –
- (a) approve the activity and issue an EIA certificate in the prescribed form and subject to any conditions deemed necessary; or
 - (b) request more information, stating reasons why it is needed and the time period within which it must be provided; or
 - (c) require an Environmental Impact Statement under section 40.
40. An Environmental Impact Statement (referred to as an EIS) shall –
- (a) describe the proposed activity;
 - (b) describe the environment which could be affected;
 - (c) describe the real and practical alternatives;
 - (d) assess the likely or potential environmental impacts of the proposed activity and the alternatives, including the direct, indirect, cumulative, short- and long-term effects;
 - (e) identify and assess measures available to mitigate adverse environmental impacts and to enhance positive environmental benefits of the proposed activity and the alternatives;
 - (f) explain methodology and interpretation of data, where applicable;
 - (g) cite data and documents which are accessible and indicate gaps in knowledge;
 - (h) cite affected persons and communities contacted;
 - (i) summarize briefly the information above in Kiswahili; and
 - (j) any other information relevant to the proposed activity as may be prescribed.
- 41.-(1) Upon requiring an EIS under section 39, the institution responsible for the environment shall determine the scope of the EIS by agreeing with the applicant on –
- (a) the specific issues of those required under section 40 to be emphasized in the EIS;
 - (b) the persons to be consulted during the preparation of an EIS;
 - (c) the methodologies to be used in collecting and analyzing the required information; and
 - (d) any other matters describing the scope of the EIS.
- (2) The procedure for determining the scope of an EIS shall be prescribed in regulations under this Act.
- (3) Notwithstanding section 39 an applicant for any Schedule 2 activity may proceed directly to this scoping stage.
42. The applicant for an EIA certificate shall bear the cost of preparing the EIS.
43. An EIS shall be undertaken by experts whose names and qualifications are approved by the institutions responsible for the environment.
- 44.-(1) Upon receiving the EIS, the institution responsible for the environment shall –
- (a) circulate it for written comments to relevant government bodies;
 - (b) notify, as prescribed, the public by any appropriate means of the place and time for reviewing the EIS and submitting written comments; and

- (c) solicit, as prescribed, the written comments, by any appropriate means, of the people who will be affected.
 - (2) The comment period under subsection (1) shall be not less than twenty (20) and not more than thirty (30) working days from the time of effective notice to all persons specified under subsection (1).
45. The institution responsible for the environment shall complete its review within thirty (30) working days after the comment period has ended.
- 46.-(1) The applicant for an EIA certificate shall comply with the requests of the institution responsible for the environment for any additional information the institution states is necessary to complete its review and shall do so within the time period specified in the requests.
- (2) The information under section may include documents, design plans, access to relevant sites and other relevant material.
 - (3) An applicant's refusal to comply with a request under subsection (1) shall be grounds for disapproval of an application for an EIA certificate.
47. In reviewing the EIS, the institution responsible for the environment shall take into consideration –
- (a) the balance between short and long-term benefits and detriments to the environment;
 - (b) the nature of the activity and how it could meet environmental standards;
 - (c) possible mitigation alternatives or other remedial measures;
 - (d) possible enhancement alternatives or other beneficial measures; and
 - (e) the comments received on the EIS.
48. After reviewing the EIS, the institution responsible for the environment shall –
- (a) approve the activity and issue an EIA certificate in the prescribed form and subject to any conditions deemed necessary;
 - (b) request more information, stating reasons why it is needed and the time period within which it must be provided; or
 - (c) disapprove the activity, refuse to issue an EIA certificate, notify the applicant and recommend to the licensing institution that the activity not be allowed to proceed.
49. The institution responsible for the environment shall disapprove the activity and recommend to the licensing institution that an activity not be allowed to proceed when –
- (a) the activity is likely to result in significant adverse impact on the environment; and
 - (b) there are no alternatives which can mitigate or remedy the significant likely harm to the environment.
- 50.-(1) If the applicant or licensing institution –
- (a) disagrees with the recommendation made under section 48 (c) and wishes to proceed with the activity; or
 - (b) considers the conditions included on the EIA certificate under sections 39(2)(a) or 48 (a) to be equivalent to disapproval of the activity notwithstanding the approval of the activity;
- then the applicant or licensing institution shall notify the institution responsible for the environment accordingly within seven (7) working days of receipt of the decision under sections 39 or 45, as the case may be.
- (2) Upon receiving notification under subsection (1), the institution responsible for the environment through the Director shall refer the matter to the Minister for decision within fourteen working days from the date of submission.
 - (3) In referring any matter to the Minister under subsection (2), the institution responsible for the environment through the Director shall forward to the Minister all information compiled during the application process and the institution's recommendation.
- 51.-(1) The Minister shall decide whether to –
- (a) approve the proposed activity and direct the Director to issue an EIA certificate in the prescribed form and subject to any conditions deemed necessary; or
 - (b) disapprove the proposed activity.

- (2) In making a decision under subsection (1), the Minister may invite public comment as appropriate through its standing orders and may take into consideration the significance of the activity in other national policies.
52. A decision of the Minister under section 51 may be appealed under section 110.
53. If the Minister decides to approve or disapprove the proposed activity, it (he) shall state its (his) reasons and show that it has considered the recommendation and information provided by the institution responsible for the environment.
54. For the purposes of this Part, an activity shall be considered likely to have a significant impact on the environment and shall be required to prepare (have) an EIS if it would, by itself or cumulatively with other activities of similar nature or location –
- (a) use major amounts of resources, either living or nonliving;
 - (b) result in the production of waste which would be in major quantities or of a hazardous nature;
 - (c) modify the environment, especially the coastal area, on major scale;
 - (d) influence population shifts in major ways;
 - (e) affect environmentally sensitive areas; or
 - (f) embody such other characteristics as may be prescribed under this Act.
55. An EIA certificate shall not be required of any person undertaking any activity listed on Schedule I to this Act unless the institution responsible for environment determines otherwise.
- 56.-(1) An EIS shall be required of any person undertaking any activity listed on Schedule 2 to this Act.
- (2) An applicant for a Schedule 2 activity may proceed directly to the scoping stage under section 41.
 - (3) An EIA certificate for any activity listed on Schedule 3 to this Act shall –
 - (a) include as one of its conditions the deposit of a section 108 environmental performance bond by the person undertaking the activity; and
 - (b) require notice of the activity to the effected community, if any.
- 57.-(1) The EIA certificate shall impose any conditions necessary to ensure that the implementation of the activity complies with the Act.
- (2) The institution responsible for the environment, in collaboration with relevant persons, shall carry out periodic audits of each activity to ensure that the conditions are fulfilled.
58. Any environmental officer duly appointed under section 106 of this Act may enter upon any land or premises for the purpose of monitoring the effects upon the environment of any activities carried out there.
59. The holder of an EIA certificate shall submit any records or reports deemed necessary by the institution responsible for the environment to ensure compliance with the conditions imposed under sections 39, 48 and 51.
- 60.-(1) Where monitoring shows non-compliance with the conditions in the EIA certificate, the holder of the EIA certificate shall –
- (a) take all reasonable measures to mitigate these unforeseen effects;
 - (b) report such measures to the institution responsible for the environment; and
 - (c) pay any fine imposed administratively by the institution responsible for the environment for initial non-compliance as prescribed in Schedule 4.
- (2) If additional monitoring shows continued non-compliance with the conditions in the EIA certificate a reasonable period of time after steps have been taken under subsection (1), the institution responsible for the environment shall –
 - (a) impose a fine for a continuing offence on the holder of the EIA certificate;
 - (b) revoke the EIA certificate; and
 - (c) report the continued non-compliance and EIA certificate revocation to the appropriate licensing institution.

(3) Upon notification under subsection (2), the approval document shall be deemed null and void for the activity in question.

(4) For the purposes of this section, 'approval document' means any permit, licence, certificate or other approval a holder of an EIA certificate has received from a licensing institution.

61. Within six months from the enactment of this Act, the Minister shall issue regulations on the procedure to be followed for environmental impact assessment.

62.-(1) Upon commencement of this Act, in collaboration with responsible institutions, the institution responsible for the environment shall monitor existing activities and determine which ones require audits to review their compliance with the provisions of this Act.

(2) In fulfilling this function, the institution responsible for the environment may require operators of activities to submit annual reports on compliance with the Act.

(3) Upon a finding of non-compliance, the institution responsible for the environment through the Director shall take appropriate action by issuing a compliance order, a stop order or an administrative fine or a combination of the above.

(b) consultations with responsible institutions and any person with relevant experience or expertise; and

(c) the best available scientific information.

64. The institution responsible for the environment may issue permits to implement National Environmental Standards as prescribed in regulations under this Act.

65.-(1) The institution responsible for the environment through the Director shall issue guidelines and codes of good environmental practice to fulfil the purposes of this Act and to ensure that the National Environmental Standards are implemented coherently.

(2) The institution responsible for the environment shall publish any guidelines or codes of good environmental practice issued under this section and disseminate information about their existence through appropriate media.

(3) Any guideline or code of good environmental practice issued under this section shall be detailed and based on the best scientific information available to the institution responsible for the environment.

(4) Compliance with guidelines and codes of good environmental practice shall be prima facie evidence that a person has complied with the provisions of this Act.

66. No person shall –

(a) import any hazardous waste into Zanzibar;

(b) export hazardous waste to any country without obtaining the authorization of the institution responsible for the environment which may be issued only with the prior informed consent of the receiving country;

(c) transport hazardous waste within or through Zanzibar, including its territorial waters, without an authorization from the institution responsible for the environment; or

(d) discharge hazardous waste as a product or by product except in accordance with the authorization of the institution responsible for the environment.

67. The institution responsible for the environment is designated as the Prior Informed Authority in Zanzibar.

6

CONTROL AND MANAGEMENT OF SPECIFIC ENVIRONMENTAL THREATS

63.-(1) The Minister shall, on the recommendation of the Director, prescribe National Environmental Standards to –

(a) prevent, limit or mitigate pollution from existing and new sources; and

(b) enhance the quality of the environment.

(2) The Director shall recommend such National Environmental Standards based on –

(a) the purposes and provisions of this Act;

- 68.-(1) No person shall handle or discharge or cause to be handled or discharged any hazardous substance except in accordance with procedures to protect the environment as prescribed by the institution responsible for the environment.
- (2) The institution responsible for the environment shall issue guidelines and prescribe measures for the management of hazardous substances in collaboration with the institutions responsible for health and agriculture and other responsible institutions.
- (3) The guidelines and measures prescribed under subsection (2) shall include –
- (a) registration;
 - (b) labelling;
 - (c) packaging;
 - (d) advertising;
 - (e) control of imports and exports;
 - (f) distribution, storage, transportation and handling;
 - (g) monitoring of the effect of the substance's use on the environment;
 - (h) disposal of expired or surplus hazardous substances;
 - (i) restricting and banning hazardous substances whose handling poses serious threats to the environment; and
 - (j) sampling and assessing affected areas.
- (4) A person who contravenes subsection (1) commits an offence under section 98.
- (5) The institution responsible for the environment through the Director may by notice in the Official Gazette ban or restrict the handling or discharge of any hazardous substance.
- (6) Any notice under subsection (5) shall –
- (a) identify areas, if any, where that hazardous substance is currently being handled or discharged; and
 - (b) be communicated directly to any affected area.
- 69.-(1) No person shall excavate, remove, transport or sell any nonrenewable natural resource from public and/or private land without a permit as prescribed by the institution responsible for nonrenewable natural resources.
- (2) No licensing institution shall issue a permit to excavate, remove, transport or sell any nonrenewable natural resource unless –
- (a) such activity is in accordance with the provisions of this Act and any other law on the matter;
 - (b) the prescribed fee has been set in accordance with the purposes of this Act, especially section 8;
 - (c) the prescribed fee has been paid;
 - (d) the permit allows removal of the nonrenewable natural resource only from a designated excavation site;
 - (e) the permit conditions for large-scale activities require environmental mitigation or restoration of the removal site; and
 - (f) an environmental performance bond has been posted as prescribed.
- (2) The Minister shall designate the institution responsible for nonrenewable natural resources by order in the Official Gazette.
- (3) The Minister responsible for nonrenewable natural resources, in collaboration with the institution responsible for the environment, shall designate by notice in the Official Gazette excavation sites for the removal of nonrenewable natural resources.
- (4) The permit holder shall on demand produce the permit to any authorized officer of the institution responsible for nonrenewable natural resources and any environmental officer.
- (5) A record of permits shall be kept at the institution designated under subsection (3).
- (6) The record in subsection (6) shall be reported on a semi-annual basis to the institution responsible for the environment.

7

PROTECTED AREAS AND BIOLOGICAL DIVERSITY

- 70.-(1) There shall be a national protected areas system in Zanzibar comprising terrestrial, aquatic and mixed terrestrial aquatic ecosystems.
- (2) Existing reserves, sanctuaries, controlled areas and other areas protected wholly or in part by a lead institution shall be eligible for inclusion in the national protected areas system by action of the institution responsible for the national protected areas system under this Act.
71. The purposes of this national protected areas system shall be –
- (a) preservation;
 - (b) sustainable utilization by residents in and near the protected areas;
 - (c) propagation of genetic resources for conservation in other areas;
 - (d) education;
 - (e) management of biological diversity;
 - (f) scientific research; and
 - (g) environmentally sound tourism and recreation.
- 72.-(1) Any area may be recommended for inclusion in the national protected areas system on the basis of the following criteria –
- (a) richness of biological diversity;
 - (b) uniqueness of biological resources at species, community and ecosystem levels;
 - (c) representation within the area of a variety of Zanzibar's ecosystems; and
 - (d) diversity of uses for its component resources.
- (2) Areas to which one or more of the criteria in subsection (1) apply shall be recommended for national protected area status if they –
- (a) have important international significance or value;
 - (b) are threatened urgently by existing or proposed uses; or
 - (c) are actively supported for national protected area status by local communities and other users.
- 73.-(1) The institution responsible for the national protected areas system in Zanzibar shall classify an area recommended for declaration or zoning as a national protected area as one or more of the following categories–
- (a) controlled area;
 - (b) reserve;
 - (c) sanctuary;
 - (d) park;
 - (e) conservation area; or
 - (f) other category defined in rules made by the institution responsible for the national protected areas system.
- (2) The institution responsible for the national protected areas system shall make rules prescribing the activities to be permitted or restricted in areas or zones corresponding to the categories designated in subsection (1) provided that no activity shall be permitted in a national protected area if that activity is prohibited under another applicable Act.
- (3) The rules made under this section shall be published in the Official Gazette by the Minister responsible for the national protected areas system.
- 74.-(1) The Minister responsible for the environment may declare any area in Zanzibar an area of international significance under international agreements.
- (2) An area declared of international significance under subsection (1) may be terrestrial, aquatic or mixed aquatic and terrestrial ecosystems.
- 75.-(1) Upon the recommendation of the institution responsible for the national protected areas system, the Minister responsible for the national protected areas system shall declare a national protected area.

- (2) Any person may petition the institution responsible for the national protected areas system and nominate an area for protection under this Act.
 - (3) The institution responsible for the national protected areas system shall consider all petitions made under subsection (2).
- 76.-(1) A declaration made under section 74 or 75 shall be made in accordance with the rules made by the institution responsible for the national protected areas system.
- (2) The rules under subsection (1) shall, at a minimum –
 - (a) specify notice to the affected persons of not less than forty-five (45) working days;
 - (b) require consultation with the concerned lead institution, the lead institution's Minister and other concerned persons, particularly those living in and around the proposed area;
 - (c) set out procedures to identify and settle existing rights in such areas; and
 - (d) be published in the Official Gazette by the Minister responsible for the national protected areas system.
- 77.-(1) Only the President may declare that an area, previously declared a national protected area under this Act, shall no longer be protected under this Act.
- (2) A removal declaration under subsection (1) shall be made only upon the –
 - (a) prior unanimous recommendation of the institution responsible for the national protected areas system; and
 - (b) prior approval of the Committee based on a completed Environment Impact Statement in accordance with this Act.
- 78.-(1) Every effort shall be made through the planning process to identify and accommodate existing rights to the extent that they are compatible with the purposes for which the national protected area is being established.
- (2) To the extent that existing rights cannot be identified or accommodated through the planning process, they shall be extinguished and adequate compensation shall be paid to the holders of those rights which have been identified.
- 79.-(1) No institution shall have the power to distribute, alienate or lease land in a national protected area unless it is directed to do so by the institution responsible for the national protected areas system.
- (2) The institution responsible for national protected areas may decide to distribute, alienate or lease land in a national protected area only in accordance with alienation procedures under existing laws and –
 - (a) with the prior consent of the institution responsible for land; and
 - (b) with the supermajority consent as prescribed in Schedule 3.
80. There is established a National Protected Areas Board as the institution responsible for the national protected areas system in Zanzibar.
81. The National Protected Areas Board shall perform the following functions –
- (a) formulate, advise and coordinate the implementation of the policies of the government on protected areas;
 - (b) recommend to the Minister responsible for the national protected areas system those areas which are suitable for national protected area status;
 - (c) approve management plans for national protected areas under section 86; and
 - (d) designate the appropriate lead institution to manage a national protected area under section 85.
82. The National Protected Areas Board shall have all powers necessary to fulfil its functions.
- 83.-(1) With the approval of the National Protected Areas Board, the Chairperson of the National Protected Areas Board may delegate in writing any of the National Protected Areas Board's powers except its power to recommend national protected area status to the Minister responsible for the national protected areas system.

- (2) This delegation may be made to any person qualified to exercise those powers whether employed in Government or not.
- 84.-(1) The National Protected Areas Board shall regulate its proceedings as prescribed in Schedule 3 to this Act.
- (2) With the consent of the National Protected Areas Board, the Minister responsible for the national protected areas system may amend or repeal any provision in Schedule 3.
- 85.-(1) For each national protected area, the National Protected Areas Board shall designate one or more lead institutions or other qualified persons as the management authority for that national protected area.
- (2) The management authority designated under subsection (1) shall –
- (a) have primary responsibility for managing the national protected area;
 - (b) prepare a management plan for the area under section 86; and
 - (c) implement administrative measures specified in the management plan.
- (3) In designating the management authority under subsection (1), the National Protected Areas Board shall-
- (a) take into account existing management plans for that or a similar protected area under applicable laws; and
 - (b) consult any institution or person who is currently managing that or a similar protected area under applicable laws and management plans.
- (4) The management authority shall be designated under this section only in accordance with the procedure set out in Schedule 3.
- 86.-(1) Each national protected area shall be managed in accordance with a plan which –
- (a) identifies areas of biological diversity;
 - (b) identifies associated communities, other users and institutions to be involved;
 - (c) describes extension and education work with these communities and other users on the establishment of the protected area;
 - (d) allocates costs and benefits of the area's protection in a manner considered equitable by the persons identified under subsection (1)(b);
 - (e) describes the boundaries of the national protected area;
 - (f) defines the management measures to be taken within the national protected area;
 - (g) outlines the regulations applicable to the national protected area;
 - (h) prescribes means to monitor the implementation of the plan;
 - (i) describes any other matter relevant to environmentally sound management of the national protected area;
 - (j) is approved by the National Protected Areas Board; and
 - (k) is published in the Official Gazette by the Minister responsible for the national protected areas system.
- (2) Management measure under subsection (1)(f) include –
- (a) zoning;
 - (b) access restrictions;
 - (c) use restrictions;
 - (d) benefit sharing;
 - (e) administrative measures, including entrance fees and permits; and
 - (f) any other measure deemed appropriate by the communities and other users.
- 87.-(1) The National Fund for Protected Areas Management is established.
- (2) The Fund shall comprise –

- (a) those amounts appropriated by the House of Representatives for the purpose of managing the national protected areas system in Zanzibar;
 - (b) all amounts collected from administrative measures imposed under sections 70-86 of this Act;
 - (c) up to fifty percent (50%), as prescribed by notice in the Official Gazette, of amounts collected from penal fines related to violations of sections 70-86 of this Act;
 - (d) all amounts received as voluntary contributions to national protected areas management in Zanzibar;
 - (e) all amounts or assets donated for national protected areas management in Zanzibar by any foreign government, international agency or foreign institution or body; and
 - (f) any other amount prescribed by notice in the Official Gazette.
- (3) The Minister responsible for the national protected areas system, after consultation with the Minister responsible for finance, may prescribe any amounts under subsections (2)(c) and (2)(f) by notice in the Official Gazette.
- (4) Any amount accepted into the National Fund for Protected Areas under subsection (2)(d) or (2)(e) may be dedicated to the management of one or more national protected areas designated by the donor.
- (5) The National Fund for Protected Areas Management shall vest in the National Protected Areas Board and subject to this Act, shall be administered in accordance with its directions.
- 88.-(1) The purpose of the National Fund for Protected Areas Management is to implement the provisions of this Act by protecting, enhancing and managing the national protected areas system in Zanzibar.
- (2) Any money not immediately disbursed by the National Fund for Protected Areas Management to support activities for its purpose shall be invested in such manner as the National Protected Area Board, after consulting with the Minister responsible for finance, shall determine.
- (3) The National Protected Area Board shall draw up standing orders, policies and procedures for disbursement of monies from the National Fund for Protected Area Management only in accordance with the purposes set out in section 71.
- (4) All monies received shall be paid into a banking account and withdrawn only by cheques signed by authorized persons.
- 89.-(1) The National Protected Areas Board shall ensure that proper books and other records of account in respect of receipts and expenditures of the National Fund for Protected Areas Management are kept in accordance with the Treasury instructions.
- (2) Within six months after each financial year has ended, the National Protected Areas Board shall submit to the Minister responsible for the national protected areas system report concerning the activities of the National Fund for Protected Areas Management during the financial year.
- (3) The National Protected Areas Board's report under subsection (2) shall include –
- (a) an audited balance sheet;
 - (b) an audited statement of income and expenditure;
 - (c) such other financial information as the Minister may require.
- 90.-(1) The institution responsible for the environment shall issue guidelines and prescribe measures for the conservation of biological diversity.
- (2) The institution responsible for the environment may, in issuing guidelines under subsection (1), –
- (a) specify national strategies, plans and programmes for the conservation and the sustainable use of biological diversity;
 - (b) integrate consideration of conservation and sustainable utilization principles regarding biological diversity in existing activities of persons;
 - (c) identify, prepare and maintain an inventory of biological diversity of Zanzibar;

- (d) determine which components of biological diversity are endangered or threatened with extinction and list them by notice in the Official Gazette; and
 - (e) identify potential threats to biological diversity and devise measures to remove or investigate their effects.
- (3) In consultation with other concerned institutions, the institution responsible for the environment –
- (a) shall prohibit or restrict international and national trade in any component of biological diversity which is endangered or threatened by international standards; and
 - (b) may restrict international and national trade in any component of biological diversity to protect a specified national interest of Zanzibar in its biological diversity.
- (4) No person shall trade, possess, or disturb the habitat of a component of biological diversity in violation of regulations, guidelines and measures prescribed under this Act.

8

OFFENCES

91. A person who –
- (a) violates any National Environmental Standard established under this Act; or
 - (b) violates a measure for which no other penalty has been prescribed under this Act;
- commits an offence and shall be liable on conviction to a fine as prescribed in Schedule 4 of this Act or to imprisonment for a term of not less than six months or both.
92. A person who imports, exports, transports, or discharges any hazardous waste in Zanzibar in violation of section 66 commits an offence and shall be liable on conviction to a fine as prescribed in Schedule 4 to this Act to imprisonment for a term of not less than six months or both.
- 93.-(1) A person who discharges or causes to be discharged into the coastal area or maritime zones under the jurisdiction of Zanzibar –
- (a) any waste or other matter from vessels, aircraft or other man-made structures at sea;
 - (b) any vessel, aircraft or other man-made structure at sea; or
 - (c) any hazardous substance or hazardous waste;
- Commits an offence and shall be liable on conviction to a fine as prescribed in Schedule 4 to this Act or to imprisonment for a term of not less than one year or both.
- (2) It shall be a defence to a prosecution under subsection (1) that the discharge was due of (to) or was rendered necessary by 'force majeure' or for the protection of human life.
- 94.-(1) A person who handles or discharges or causes to be handled or discharged a hazardous substance into Zanzibar's environment in violation of guidelines prescribed under this Act commits an offence and shall be liable on conviction to a fine as prescribed in Schedule 4 to this Act or to imprisonment for a term of not less than six months or both.
95. A person who –
- (a) undertakes an activity in violation of section 38;
 - (b) approves an activity in violation of section 38; or
 - (c) fails to observe a compliance order under sections 63;
- Commits an offence and shall be liable on conviction to a fine as prescribed in Schedule 4 to this Act or to imprisonment for a term of not less than six months or both.
96. A person who exports or uses a natural resource in violation of guidelines for sustainable development prescribed under this Act commits an offence and shall be liable on conviction to a fine as prescribed in Schedule 4 to this Act or to imprisonment for a term of not less than one year or both.
97. A person who –
- (a) trades;

- (b) possesses; or
- (c) disturbs the habitat of

a component of biological diversity in violation of guidelines and measures prescribed under section 90 and other provisions in this Act commits an offence and shall be liable on conviction to a fine as prescribed in Schedule 4 to this Act or to imprisonment for a term of not less than six months or both.

98. A person who excavates, removes, transports or sells nonrenewable natural resources without a permit as required under section 69 commits an offence and shall be liable on conviction for a fine as prescribed in Schedule 4 to this Act or for a term of imprisonment of not less than six months or both and confiscation of the excavated material and the instruments used in excavation, transport or use by the Government.
99. A person who interferes with a duly-appointed environmental officer who is carrying out duties and functions under section 106 shall be liable on conviction to a fine as described Schedule 4 to this Act or to imprisonment for a term of not less than six months or both.
100. A person who fails to observe a stop order issued under section 23 commits an offence and shall be liable on conviction for a fine as prescribed in Schedule 4 to this Act or for a term of imprisonment not less than six months or both.
- 101.-(1) In addition to the penalties for the offences under this Act, where appropriate, the court shall require an offender to –
- (a) remove all harmful effects of the activity and restore the environment's capacity to fulfil its functions; or
 - (b) pay the full cost of removing the harmful effects of the activity and restoring the environment's capacity to provide its environmental functions; and
 - (c) pay the full costs of third parties in the form of reparation, restoration, restitution or compensation, restoration, restitution or compensation as may be determined from time to time by the institution responsible for the environment.
- (2) In addition to the penalties for the offences under this Act, where appropriate, the court may also order confiscation of the item illegally taken or the instruments for committing the offence.
102. Pursuant to section 55 of the Interpretation of laws and General Provisions Act, 1984 and section 351 of the Penal Decree and notwithstanding section 352 of the Penal Decree, any offence under this Act or regulations made thereunder shall include the attempt to commit that offence.
- 103.-(1) The penalty for a repeat offence under this Act may be doubled.
- (2) The penalty for a continuing offence shall be increased daily as prescribed in Schedule 4.
- 104.-(1) In accordance with section 6, the owner or operator of a facility, vehicle or premises on which an offence under this Act takes place shall mitigate the impact of this offence by–
- (a) giving immediate notice of the offence to the institution responsible for the environment;
 - (b) immediately beginning the best available clean-up operations; and
 - (c) complying with the directions which may be given by the institution responsible for the environment.
- (2) If the owner or operator fails to mitigate under subsection (1); the institution responsible for the environment may –
- (a) seize the facility, vehicle or premises involved; and
 - (b) dispose of these assets upon court order delivered when the owner or operator has failed to take the necessary measures within a reasonable period of time.
- (3) In convicting a person of an offence under this Act, the court shall take into account the measure taken by that person to comply with this duty to mitigate and impose a lesser sentence if the duty has been fulfilled.
- 105.-(1) Subject to the conditions set out in subsection (2) and only upon the recommendation of the Director, the Minister may –

- (a) compound an offence by accepting a sum of money not less than the maximum fine specified for the offence which may be paid in instalments as appropriate; and
 - (b) order the release of any item seized in connection with the offence on payment of a sum of money not more than the value of the item.
- (2) For the purposes of subsection (1), an offence may be compounded only if the person provides a written statement to the Minister –
- (a) admitting the offence; and
 - (b) agreeing to compounding of that offence under this section.
- (3) Any money received under this section shall be equivalent to and in lieu of a fine imposed by a court.
- (4) Compounding the offence shall be a defence to any action or legal proceeding brought against a person for an offence under this Act.
- (5) Sections 100 and 101 of the Penal Decree shall not apply to compounding of offences under this Act.
- (4) The Minister may make regulations for the establishment of honorary environmental officers, including the percentage of income collected from fines to (be) applied to covering the expenses incurred by the honorary environmental officers and to the institutional development of the nongovernmental persons that participate.
- 107.-(1) The enforcing institutions under this Act shall be –

- (a) regarding air and noise – the Ministry responsible for health;
- (b) regarding quality control of water supplied for drinking and domestic purposes, inland waters and effluents – the Ministry responsible for water resources;
- (c) regarding solid waste and nonrenewable natural resources – the Ministry responsible for local government.
- (d) regarding pesticide residues – the Ministry responsible for agriculture and livestock.
- (e) regarding conservation and sustainable development of fish and marine resources and waters in the coastal areas – the Ministry responsible for fish resources.
- (f) regarding conservation and sustainable development of forests and wildlife resources – the Ministry responsible for forest resources.
- (g) all other environmental matters and media – the institution responsible for the environment.

9

MISCELLANEOUS PROVISIONS

- 106.-(1) The Director shall appoints environmental officers to enforce this Act.
- (2) All environmental officers appointed to enforce legislation related to the environment are authorized to enforce this Act and, without a warrant, to –
- (a) enter any premises, except a place of residence, reasonable related to the activity regulated by this Act;
 - (b) take any samples required; and
 - (c) receive any relevant documents requested.
- (3) A warrant shall be required for an environmental officer to enter a place of residence relating to the existing activity.
- (2) The Minister may designate additional enforcing institutions for additional environmental matters by notice in the Official Gazette.
- (3) Within the above designated sphere of responsibility, enforcing institutions shall –
- (a) supervises enforcement of National Environmental Standards, orders and notices issued under this Act;
 - (b) verify compliance with this Act through regular reporting, monitoring, sampling, testing and analyses; and

- (c) provides such assistance as may be required to review an EIS or to assist in an environmental emergency.
 - (4) Each enforcing institution shall have all the powers conferred under sections 23 and 24 to issue stop orders and default notices, revoke permits and confiscate environmental performance bonds.
 - (5) Each enforcing institution shall have all the powers conferred on an environmental officer under section 110 and may delegate in writing its powers to any qualified person whether or not employed by the institution.
 - (6) Each enforcing institution shall cooperate with other enforcing institutions.
 - (7) Each enforcing institution shall keep records of all compliance monitoring, information and environmental data received from monitoring and shall provide the institution responsible for the environment with copies upon request.
- 108.-(1) An environmental performance bond may be required for any activity which threatens the environment.
- (2) An environmental performance bond shall be deposited in the Fund as security for good environmental practice until its refund to the depositor.
 - (3) The environmental performance bond shall be returned to the operator of the activity upon the satisfaction of the conditions set by the institution responsible for the environment.
 - (4) The institution responsible for the environment shall give the operator an opportunity to be heard before confiscating the environmental performance bond.
 - (5) An environmental performance bond shall be confiscated in whole or in part when the institution responsible for the environment finds that an operator's practices violate the provisions of this Act, including the conditions of any certificate, licence or permit issued under the Act.
- 109.-(1) Any person, whether or not assisted by an advocate or wakil, shall have the right to petition the appropriate enforcing institution or any court of law, Subject to that court's rules, to enforce any provision of this Act.
- (2) Any person who institutes a proceeding under this section and who prevails in court shall have the right to recover the costs of the legal proceeding from the other party.
 - (3) At the request of the prevailing party, the court acting upon a proceeding instituted under this section shall include in the judgment any costs of the prevailing party.
 - (4) For the avoidance of doubt, 'person' specifically includes any individual or group of individuals whether formally registered for environmental purposes or not and any community which has prepared a community environmental management plan under section 35.
- 110.-(1) Any person who is not satisfied with a decision of the Minister shall have the right to appeal to the Committee.
- (2) The Committee which reviews the decision under subsection (1) may vary or quash any finding of the Minister and its decision shall be final.
111. No suit or prosecution shall be permitted of an officer of the institution responsible for the environment or an officer empowered under this Act for anything that is done or intended to be done in good faith in pursuance of this Act.
- 112.-(1) The institution responsible for the environment may appoint special environmental mediators, subject to the direction and powers of the Director, when any person has requested assistance in –
- (a) addressing a potential environmental offence;
 - (b) remedying a potential environmental problem; or
 - (c) preparing a community environmental management plan under section 39.
- (2) A special environmental mediator appointed under subsection (1) shall –
- (a) be trained in alternative dispute resolution techniques;
 - (b) have experience in environmental matters; and
 - (c) be accepted by the persons involved in the matter being mediated.

- 113.-(1) The institution responsible for the environment may appoint special environmental prosecutors, subject to the direction and powers of the Attorney-General, who shall have exclusive power to try any criminal offence under this Act.
- (2) The institution responsible for the environment may, in writing and with the Attorney-General's consent, delegate the power to appoint special environmental prosecutors.
- (3) Any person appointed as a special environmental prosecutor under this section shall have –
- a verifiable knowledge of law; and
 - experience in environmental matters.
- 114.-(1) A special environmental assessor shall be appointed to assist the court in environmental cases when deemed necessary by the responsible magistrate or judge.
- (2) A special environmental assessor shall –
- hold a certificate in law;
 - have practiced law for at least three years; and
 - have experience in environmental matters.
- 115.-(1) The Attorney General shall designate a State Attorney responsible for environmental matters in Zanzibar.
- (2) By virtue of designation under subsection (1), the State Attorney responsible for environmental matters in Zanzibar shall also be a special environmental prosecutor under section 113 under this Act.
116. The functions of the State Attorney responsible for environmental matters in Zanzibar are to –
- represent the public welfare as a party in all lawsuits concerning a violation under the Act;
 - file a civil action for the reparation of damages; and
 - ensure full compliance with the administrative procedures and obligations imposed on the public administration organs and officials by this Act and by any other Acts or subsidiary legislation related to the environment;
- help in the preparation of regulations and by-laws under this Act;
 - perform any duty as directed by the institution responsible for environment.
- 117.-(1) In fulfilling the functions under section 116, the State Attorney responsible for environmental matters in Zanzibar shall have the power to (give) notice, to the Attorney General, (of) a default by a Government institution on payment of a fine imposed by a court under this Act.
- (2) Upon notice of default under subsection (1), the Attorney General shall direct the Minister responsible for finance to withhold the amount of the court-ordered fine from the budget of the Government institution.
- (3) The amount under subsection (1) may be increased daily as prescribed by notice in the Official Gazette.
- (4) Any amount withheld under this section shall be paid into the National Environmental Fund for Sustainable Development.
118. Without prejudice to the generality of the powers conferred under this Act, the Minister may make regulations to manage the environment for sustainable development and in particular to –
- regulate the procedure for fulfilling environmental impact assessment requirements;
 - specify the terms and conditions for use of environmental performance bonds;
 - prescribe strategies for conservation of ecosystems and biological diversity of Zanzibar;
 - implement any environmental action plan or integrated coastal area management plan prepared under sections 32, 33, 34, 36 and 37;
 - prescribe the contents of community environmental management plans;
 - set out the procedures for approving and implementing community environmental management plans prepared under section 35;
 - regulate pollution, especially of the marine environment from land-based sources;

- (h) prescribe forms and procedures for regulation of hazardous substances and hazardous waste under section 66 and 68;
 - (i) prescribe forms, procedures and permits for implementation of National Environmental Standards under sections 63 and 64;
 - (j) establish honorary environmental officers and specify percentage of income collected from fines to be applied to covering the expenses incurred by the honorary environmental officers;
 - (k) issue, amend and revoke certificates or licences permitted under this Act;
 - (l) take fees and levy charges to implement this Act; and
 - (m) regulate all other matters related to the purposes and implementation of the provisions of this Act.
119. The Minister may amend or repeal any Schedule to this Act except Schedule 3 under section 88 and Schedule 5 under section 122 to this Act by notice in the Official Gazette.
120. Notwithstanding section 42(e) of the Interpretation of Laws and General Provisions Act, 1984 any offence established under subsidiary legislation made under this Act shall be punishable by a term for imprisonment of not more than six months and to a fine as prescribed on Schedule 4 to this Act or both.
121. Until timely publication of the Official Gazette resumes in Zanzibar, –
- (a) no subsidiary legislation required under this Act to be published in the Official Gazette shall be invalid solely because it has not been so published; and
 - (b) any subsidiary legislation required under this Act to be published in the Official Gazette shall be disseminated as practical and appropriate to provide notice to persons in Zanzibar.
122. The Removal of Natural Produce Rules, 1984, L.N. 21 of 1984, are repealed.
- 123.-(1) The following laws are amended as set out in Schedule 5 –
- (a) The District and Town Councils Act, 1995, Act No. 4 of 1995; and
 - (b) The Zanzibar Municipal Council Act, 1995, Act No. 3 of 1995.
- (2) The Commission for Lands and Environment Act, 1989 Act No. 6 shall be amended accordingly pursuant to the provisions of this act.
- 124.-(1) This Act shall override the provisions of any other Act to the extent which they contradict provisions of this Act.

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Text kindly provided by Dr Hamudi I. Majamba.

