

LEGAL AND HUMAN RIGHTS CENTRE



ENGLISH TRANSLATION OF THE DRAFT CONSTITUTION

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13

INFORMATION

The Draft Constitution Issue has been published in the Government Gazette in accordance with Section 18(5) of the Constitutional Review Law Cap 83, with the aim of making it available to people for them to read and provide more views to the Commission in relation to the themes contained in the Draft Constitution.

Dar es Salaam,

3 June, 2013

Joseph S. Warioba

commission's *Chairperson*

THE UNITED REPUBLIC OF TANZANIA DRAFT CONSTITUTION 2013

CONTENT

Article

Title

PREAMBLE

CHAPTER ONE

THE UNITED REPUBLIC OF TANZANIA

PART ONE

BOUNDARIES, SYMBOLS, LANGUAGE, CULTURE AND NATIONAL VALUES

1. The United Republic
2. The Territory of the United Republic
3. National Symbols and Holidays
4. National Language and Sign Languages
5. National Values

PART TWO

**SOVEREIGNTY OF THE PEOPLE, AUTHORITY AND ALLEGIANCE TO THE
CONSTITUTION**

6. Sovereignty of the people
7. The People and the Government
8. Supremacy and Obedience of the Constitution
9. Defense of the Constitution

CHAPTER TWO

**FUNDAMENTAL OBJECTIVES, DIRECTIVE PRINCIPLES OF GOVERNMENT
DUTIES AND NATIONAL POLICIES**

10. Implementation of National Objectives
11. Main Objectives
12. Foreign Affairs Policy

CHAPTER THREE

ETHICS AND PROHIBITIONS IN PUBLIC LEADERSHIP AND SERVICE

PART ONE
PUBLIC LEADERS' CODE OF ETHICS

13. Trust of Public Leadership
14. Principles of Public Leadership
15. Gifts in Public leadership
16. Obligation to declare property and debts
17. Conflict of Interest
18. Use of public property
19. Application of code of ethics to public servants

PART TWO
CODE OF ETHIC FOR PUBLIC LEADERSHIP

20. Observance of the code of ethics for public leadership
21. Prohibitions of some acts

CHAPTER FOUR
HUMAN RIGHTS, CITIZENS' RESPONSIBILITIES AND NATIONAL
AUTHORITIES

PART ONE
HUMAN RIGHTS

22. Freedom, personality and equality of human beings
23. The right to life
24. Prohibition against discrimination
25. The right to not being enslaved
26. Personal freedom
27. The right to privacy and personal security
28. Freedom of movement
29. Freedom of opinion
30. Freedom of information and news media
31. Freedom of faith and religion
32. Freedom of association and cooperation with others
33. Freedom to participate in public affairs
34. The right to work
35. The right of employees and employers

36. The right to own property
37. The right to citizenship
38. The right of the accused and the prisoner
39. The right of a detainee
40. Freedom and right to clean environment
41. The Right to education and learning
42. The right of the child
43. The right and duties of the youth
44. The rights of people with disabilities
45. The rights of minority groups in the society
46. The rights of women
47. The rights of the elderly people

PART TWO

DUTY OF THE CITIZENS AND STATE AUTHORITY

(a) Duties of the Citizens to the Nation

48. Duty to participate in work
49. Duty to safeguard public property
50. Important rights and duties

(b) Duties of State Authority

51. Protection of human rights
52. Oversight of human rights
53. Limits of human rights

CHAPTER FIVE

CITIZENSHIP IN THE UNITED REPUBLIC

54. Citizenship of the United Republic
55. Citizenship by birth
56. Citizenship by registration

CHAPTER SIX

STRUCTURE OF THE UNITED REPUBLIC

57. The structure of the Union
58. Executive organs of the United Republic
59. The Authority of the Union Government

- 60. Union Matters
- 61. The Union Partners
- 62. Authority of the Union Partners
- 63. Relationship between Union Partners
- 64. Resident Ministers
- 65. Citizens' sovereignty
- 66. Duty to safeguard the Union

CHAPTER SEVEN
THE GOVERNMENT OF THE UNITED REPUBLIC

PART ONE
GOVERNMENT, PRESIDENT AND VICE() PRESIDENT

(a) The Government

- 67. The Government of the United Republic

(b) The President

- 68. The President of the United Republic
- 69. The Authority and duties of the President
- 70. Discharge of Presidential authority
- 71. Observance of advice by the President
- 72. Failure of the President to discharge his authority
- 73. Discharge of Presidential duties while absent

(c) Election of the President

- 74. Election of the President
- 75. Qualities of the President
- 76. Eligibility for re-election
- 77. Procedures for the Election of President
- 78. Petitions against credibility of Presidential Elections
- 79. The oath of office of President

(d) Special Conditions about the Powers of the President

- 80. The power to declare war
- 81. The power to declare a state of emergency
- 82. Prerogative of mercy
- 83. Protection against Prosecution of President

84. The Parliament to impeach the President

85. Salary and allowances of President

(e) The Vice President

86. The Vice-President of the United Republic

87. Getting a Vice-President

88. Qualities of the Vice-President

89. The Oath of the Vice-President

90. The time for the Vice-President to assume Power

91. The Parliament removing the Vice-President

PART TWO

THE CABINET OF THE GOVERNMENT OF THE UNITED REPUBLIC

(a) The Cabinet

92. Composing the Cabinet

93. Appointment of Ministers and Deputy Ministers

94. Qualifications of ministers and deputy ministers

95. Oath, tenure and conditions of service of a minister and deputy minister

96. Execution of government duties in the parliament

(b) The Chief Justice

97. The Chief Justice

(c) The Principal Secretary

98. The principal secretary

99. Permanent secretaries

(d) Discharge of Duties of the Cabinet

100. Special committee of permanent secretaries

101. Secretariat of the cabinet

CHAPTER EIGHT

COORDINATION OF RELATIONS OF THE UNION PARTNERS

PART ONE

102. The commission for relationships and coordination of the government

103. Objectives of the commission

104. The Responsibilities of the commission

CHAPTER NINE

THE PARLIAMENT OF THE UNITED REPUBLIC

PART ONE

ESTABLISHMENT OF THE PARLIAMENT OF THE UNITED

REPUBLIC

105. The Parliament of the United Republic
106. Duration of the Parliament
107. The Powers of the Parliament
108. The limits of the Parliament to use its sovereignty
109. The Authority of the Parliament to Legislate
110. The Procedure for Legislating
111. Procedures for changing this Constitution and some other laws
112. Procedure for changing specific conditions
113. Procedure for legislating about financial affairs
114. Powers of the Head of State on Draft Legislation
115. Approval of Government Proposals

PART TWO

MEMBERS OF PARLIAMENT

116. Election of Members of Parliament
117. Qualifications for Member of Parliament
118. Cessation of holding Office for people with authority in the Government
119. Procedures for election of Members of Parliament
120. Oath of Members of Parliament
121. Work conditions for Members of Parliament
122. Tenure of Office of members of Parliament
123. Responsibility of members of parliament
124. The right of voters to hold a member of parliament accountable
125. Resolutions of an issue if the person is a parliamentarian
126. An official pronouncements about leaders code of ethics
127. Parliamentarians' declaration of property

PART THREE

LEADERSHIP OF THE PARLIAMENT

(a) Speaker and deputy speaker

128. The speaker and his/her power
129. Cessation of powers of the Parliament
130. Deputy Speaker
131. Procedures for electing Speaker and Deputy speaker
132. Qualifications of a suitable candidate for being speaker or deputy speaker

(b) Office of the parliament

133. Clerk of the national assembly
134. The secretariat of the national assembly

PART FOUR

PROCEDURES OF PROCEEDINGS IN THE NATIONAL

ASSEMBLY

- 135. Standing orders of the national assembly
- 136. President addressing the parliament
- 137. Meetings of the national assembly
- 138. Leadership and national assembly meetings
- 139. Quorum at sittings of the national assembly
- 140. Standing committees of the national assembly

**PART FIVE
POWERS AND PRIVILEGES OF PARLIAMENT**

- 141. Freedom of proceedings in the national assembly
- 142. Limits of proceedings in the national assembly

**CHAPTER TEN
THE JUDICIARY OF UNITED REPUBLIC OF**

TANZANIA

**PART ONE
PRINCIPLES OF DISPENSATION OF JUSTICE AND
OF THE JUDICIARY**

FREEDOM

- 143. Establishment of the judiciary of Tanzania
- 144. Principles of dispensation of justice
- 145. Independence of the judiciary

**PART TWO
THE STRUCTURE OF THE JUDICIARY
(a) *The Judiciary of the United Republic***

- 146. The structure of the judiciary

(e) *The High Court of the United Republic*

- 147. The High Court
- 148. Quorum in proceedings of the High Court
- 149. Authority of the High Court
- 150. Authority of justice of the High Court

(f) *Appointment of the Justices of the High Court*

- 151. Appointment of the Chief Justice
- 152. Appointment of the Deputy Chief Justice
- 153. Appointment of Justices of the High Court
- 154. Oath of Judges of the High Court

155. Tenure of office of the chief justice, deputy chief justice and other judges

156. Procedures of acting in the high court

157. Procedures relating to disciplines of the high court

(g) The court of appeal of the united republic

158. The Court of Appeal

159. Quorum at sitting of the court of appeal

160. Jurisdiction of court of appeal

161. Jurisdiction of justices of appeal

(h) Appointment of Justices of the Court of Appeal

162. Appointment of the Chairman of the Court of Appeal

163. Appointment of Justices or the Court of Appeal

164. Oath of justices of the Court of Appeal

165. Tenure of office of the chairman and other judges of the Court of Appeal

166. Procedure for acting in the Court of Appeal

167. Procedures relating to discipline of Justices of Appeal

(i) Oversight of the duties of the Judiciary

168. Court Registrar

169. Duties of the Court Registrar

170. The Chief of the Judicial Office

171. The responsibilities of the Chief of the Judicial Office

PART THREE

THE JUDICIAL SERVICE COMMISSION AND THE JUDICIARY

FUND

(a) The Judicial Services Commission

172. The Judicial Services Commission

173. The functions of the Judicial Services Commission

174. Membership in political parties

(b) The Judiciary Fund

175. The Judiciary Fund

CHAPTER ELEVEN

SERVICES IN THE UNITED REPUBLIC

176. Main principles of public service

177. Terms and conditions of service in the united republic

178. Public Service commission

179. The powers of the public services commission

CHAPTER TWELVE
ELECTIONS IN REPRESENTATIVE ORGANS AND POLITICAL PARTIES
PART ONE

PEOPLE'S REPRESENTATION

180. Participation in representative organs

PART TWO

INDEPENDENT ELECTORAL COMMISSION

(a) Structure of the independent commission and political parties

181. Establishment of the independent electoral commission

182. Appointments Committee

183. Cessation of tenure of the Independent Electoral Commission

184. Responsibilities of the Independent Electoral Commission

185. Electoral Petition

(b) Political Parties

186. Political Parties

(c) The Director of Elections and the Registrar of Political Parties

187. Discharge of the Functions of the Independent Electoral Commission

CHAPTER THIRTEEN
RESPONSIBLE INSTITUTIONS

PART ONE

THE COMMISSION FOR LEADERSHIP ETHICS AND ACCOUNTABILITY

188. Commission for Leadership Ethics and Accountability

189. Functions of the Commission

190. Tenure of Office of Members of the Commission

191. Removal from office of Members of the Commission

192. Freedom of the Commission

193. Provision of instruments and resources

PART TWO

THE COMMISSION FOR HUMAN RIGHTS

194. Commission for Human Rights

- 195. Duties and Functions of the Commission
- 196. Tenure of office of the Members of the Commission
- 197. Removal from office of Members of the Commission
- 198. Independence of the Commission
- 199. Provision of instruments and resources

PART III

THE CONTROLLER AND AUDITOR-GENERAL OF THE UNITED REPUBLIC

- 200. Appointment of the Controller and Auditor-General
- 201. Qualifications of the Controller and Auditor-General of the United Republic
- 202. Functions and responsibilities of the Controller and Auditor- General of the Republic
- 203. Tenure of office
- 204. Removal from office
- 205. Provision of Instruments and resources

CHAPTER FOURTEEN PROVISIONS REGARDING THE FINANCES OF THE UNITED REPUBLIC

(a) The Consolidated Fund of the Government of the United Republic

- 206. Consolidated of Fund of the Government of the United Republic
- 207. Conditions for withdrawal of expenditure of moneys from the Consolidated
- 208. Procedure for authorization of Monies from the Consolidated Fund
- 209. Procedure for authorization of expenditure of appropriation
- 210. Contingencies Fund
- 211. Remuneration of certain holders of public offices to be a charge on Consolidated Fund

(b) Public Debt and Loans to the Government of the United Republic

212. National Debt

213. The powers of the Government of the United Republic to borrow

214. Powers of the Government of the United Republic to borrow

***(c) Sources of Revenue of the Government of the United Republic
and Public Appropriation***

215. Sources of revenue of the Government of the United Republic

216. Public Appropriation

(d) Bank of Tanzania

217. Bank of Tanzania

218. Banks of the Partner Governments

CHAPTER FIFTEEN

DEFENCE AND SECURITY OF THE UNITED REPUBLIC

(a) Defence and National Security

219. National Security

220. The national defence and security organs

221. Establishment of the National Defence and Security Council

222. Functions of the National Defence and Security Council

(b) Tanzania People's Defence Force

223. Establishment of the Tanzania People's Defence Force

224. Appointment of the Chief of the Defence Forces of the Tanzania People's Defence Force

225. Powers of the Commander-in- Chief

226. Commission for the Service of the Tanzania People's Defence Force

(c) The Police Force of the United Republic

227. The Police Force of Tanzania

- 228. Principles of the performance of the Police Force
- 229. Appointment of the Inspector General of Police
- 231. Commission for the Service of the Police Force
- 232. The Police Forces of the Partners of the United Republic

(d) The National Intelligence Department

- 233. Establishment of the National Intelligence Department
- 234. Appointment of the Director of the National Intelligence Department
- 235. Security of the Partners of the United Republic

**CHAPTER SIXTEEN
MISCELLANEOUS PROVISIONS**

- 236. Provisions relating to Parliament
- 237. Provisions relating to procedure of succession to office
- 238. Interpretation
- 239. Title, commencement and application of this Constitution
- 240. Repeal of the Constitution of the United Republic, 1977

SCHEDULES

PREAMBLE

WHEREAS We, the People of the United Republic of Tanzania, have firmly and solemnly resolved to build in our country a society founded on the principles of humility, freedom, justice, equality, fraternity, peace, togetherness and solidarity in all aspects of our lives;

AND WHEREAS, we believe that those principles can only be realised in a democratic society and one that observes good governance whose Executive is accountable to a Legislature composed of elected Members of Parliament and representative of the people, and an independent Judiciary which dispenses justice without any fear or favour, and thereby ensuring that all human rights are protected and preserved and that the duties of every person are faithfully discharged;

AND WHEREAS, the importance of presenting National Sovereignty and including fighting against any kind of destruction, embezzlement, and encouraging proper and sustainable use of our resources and natural resources together with protecting and preserving our environment for the future of the present and for future generations;

AND WHEREAS, the necessity and benefit of nurturing, propagating and developing peace, unity, friendship and solidarity among Tanzanians, other Nations in Africa and in the World at large;

WHEREAS, the resolve to build Unity of the African Continent on the principle of a United States of Africa which is revealed by the Union of what used to be the Republic of Tanganyika and the Republic of the People of Zanzibar;

AND TAKING THE MATTER FURTHER, that intent which we have is important in order:

- (a) to safeguard, establish and strengthen the Union of the countries of the Republic of Tanganyika and the Republic of the People of Zanzibar;
- (b) to build a Nation that is free and self-reliant;
- (c) to strengthen and establish rule of law;
- (d) to develop and establish ethics, accountability and transparency;
- (e) to build unity and solidarity which shall facilitate fulfillment of political, economic, social, and environmental objectives and safeguarding heritage in general;

- (f) to build and establish people's supremacy and sovereignty;
- (g) to build and establish observance of supremacy of Constitution; and
- (h) to strengthen and establish patriotism to the Nation among Tanzanians;

AND IN THAT REGARD, the heritage left to us by the Founders of our Nation of building a nation that has Unity of its People who do not discriminate against one another on the bases of tribe, religion, colour, sex or any other type of discrimination;

AND IN THAT REGARD, the experience of more than Fifty Years of Independence and Fifty Years of the United Republic of Tanganyika and the Republic of the People of Zanzibar and the necessity of wider and transparent participation of the people in the preparation of the Constitution of the United Republic of Tanzania;

NOW, THEREFORE, THIS CONSTITUTION OF THE UNITED REPUBLIC OF TANZANIA WHICH WAS PROPOSED BY A SPECIAL CONSTITUENT ASSEMBLY has been authored by US THE CITIZENS OF THE UNITED REPUBLIC OF TANZANIA, through A REFERENDUM for the purpose of building such a society and ensuring that the United Republic of Tanzania is governed by a Government that adheres to the principles of democracy and rule of law, self-reliance and a secular state.

CHAPTER ONE
THE UNITED REPUBLIC OF TANZANIA

PART ONE

BOUNDARIES, SYMBOLS, LANGUAGE, CULTURE AND NATIONAL VALUES

The United Republic

1.-(1) The United Republic of Tanzania is a Federation which is sovereign and has resulted from the Union of two countries of the Republic of Tanganyika and the People's Republic of Zanzibar which before the agreement of the Articles of Union of 1964 were independent states.

(2) The United Republic is a democratic Federation which follows multi-party political system, equality of human beings, self-reliance, rule of law and respect for human rights.

(3) The Articles of Union which has been referred to under Sub article (1), is the main principle of the United Republic of Tanzania and this Constitution, as shall be amended, shall constitute part of the Agreement.

The Territory of the United Republic

2. The area of the United Republic is all its area including the area of the sea and all the area of Zanzibar including its area of the sea.

National Symbols and Holidays

3.-(1) The National Symbols are:

- (a) National Flag;
- (b) National Anthem; and
- (c) National logo,

as shall be identified by a law that shall be enacted by the National Assembly.

(2) The National Holidays shall be:

- (a) The Independence Day of Tanganyika, that shall be celebrated on 9 December;
- (b) The Day of Revolution of Zanzibar, that shall be celebrated on 12 January;
- (c) The Union Day of Tanganyika and Zanzibar, that shall be celebrated on 26 April; and
- (d) Other Holidays that shall be identified by the laws of the land.

(3) Each National Day shall be a public holiday.

National Language and Sign Languages

4.-(1) The National Language of the United Republic shall be Kiswahili and shall be used in official national and governmental communications.

(2) Without prejudice to the provisions of Subarticle (1), the English language may be used as an official language of governmental communication should a need arise.

(3) The Government shall facilitate the communication by alternative languages including sign languages and Braille in important public places and in mass media with national coverage for people with special needs.

National Values

5. The United Republic shall respect and observe the following National Values:

- (a) humility
- (b) patriotism
- (c) diligence
- (d) unity
- (e) transparency
- (f) accountability; and
- (g) national Language.

PART TWO

SOVEREIGNTY OF THE PEOPLE, SUPREMACY AND DEFENCE OF THE CONSTITUTION

Sovereignty of the people

6. The United Republic is a country which is guided by principles of democracy which regard social rights, and therefore:

(a) the people are the basis of the state authority, and the government shall resume authority and power from the people who through their unity and totality own and give this constitution legitimacy;

(b) the main object of the government shall be development and prosperity of the government.

(c) the government shall be accountable to the people;

(d) The people shall participate in government duties according to the condition of this constitution

The People and the Government

7. (1) The structure of the government of the united republic and its organs in the execution and implementation of its duties shall be based on its object of strengthening national unity and maintain national integrity.

(2) For the purpose of the condition Subarticle (1), the state and its organs are obligated to direct their policies and duties to ensure that

(a) Dignity and other human rights are represented and valued

(b) The law of the land are administered;

(c) the government shall ensure that the duties which are done are implemented in ways that will ensure that national wealth is developed preserved and used for the benefit of all the people and also that prohibit one person from exploiting another person from exploiting another person;

(d) Land being the main resource of the nation, is protected, preserved and used by the people of Tanzania for the benefit, advantage and prosperity of the present and future generation;

(e) National economic development is placed and developed proportionally and jointly in a way that shall benefit all the people;

(f) Every person who is capable of working works, and work is any legal activity which provides a person with his income;

(g) Dignity, respect and all other human rights are preserved and maintained in regard to Tanzanian culture and traditions and considering different agreements to which the united republic consented;

(h) national authority provides/equal opportunities and rights to all the people, women and men, without discrimination on the basis of colour, tribe, affinity, religion, or a person's status;

(i) All kinds of injustice, threats, discrimination, subjugation, graft, oppression or nepotism are removed from the country;

(j) The wealth of the national resources and natural resources is directed towards bringing about development, alleviation of poverty, ignorance and disease; and

(k) The country is governed through the principles of democracy and self-reliance.

Supremacy and Defence of the Constitution

8.-(1) Without prejudice to the conditions of the Constitutions of the Member States of the in non-Union matters, this Constitution shall be the supreme law in the United Republic.

(2) Any person, organ, institution, community and of the government (national authority) and private authority are obligated to observe the conditions of this Constitution and obey them;

(3) Any law, culture, tradition or any decision by a state organ, a Government officer or individual is obligated to follow and comply to the conditions contained in this Constitution and that, any law, culture, tradition or decision that does not comply or abide by the conditions set in this Constitution shall be null and void.

Defense of the Constitution

9.-(1) A person or group of person shall not take charge of or hold the state authority except in accordance with this Constitution.

(2) Any act that breaches the condition of Sub article (1) is null and void and is treason as shall be elaborated in the laws of the land.

(3) For the purpose of preserving the conditions of Subarticles (1) and (2), the Government shall lay down procedures for distributing this Constitution to the people and put it in educational curricula to enable people to know, defend and respect it.

CHAPTER TWO

FUNDAMENTAL OBJECTIVES, DIRECTIVE PRINCIPLES OF GOVERNMENT DUTIES AND NATIONAL POLICIES

Implementation of National Objectives

(10).-(1) The National Objectives stipulated in this Constitution shall be the guide to the Government, Parliament, Judiciary, political parties, institutions, organisations and other authorities and to every citizen for use or interpretation of the conditions of this Constitution or any other law and for the implementation of policy decisions for the purpose of building a society which is free, observant and sound.

(2) The Government will report to the Parliament, not less than once every year, about the steps taken by the national authority to ensure the implementation of the National objectives stipulated in this Constitution.

Main Objectives

11.-(1) The Main Objective of this Constitution is to safeguard, strengthen and sustain fraternity, peace, unity and prosperity of the citizens of the United Republic in regard to prosperity of the citizens and building a free Nation which cherishes democracy, good governance and self-reliance.

(2) Without prejudice to the conditions of Subarticle (1) the main objective shall be perpetuated and strengthened in all important aspects, including political, economic, social, cultural and environmental.

(3) In the execution of the National objectives of:

(a) politically, the Government shall take appropriate measures in order to-

(i) ensure that it blocks, obstructs and alleviates injustice, threats, discrimination, harassment, graft, oppression and favouritism among the people on the bases of a person's origin, where he comes from, relation, tribe, sex, religion or his faith;

(ii) ensure that there is peace and development of a culture of recognizing, respecting and cherishing peace, unity and stability, cooperation and political tolerance for the purpose of bringing about social and economic development;

- (iii) ensure that there is security, safety and prosperity of people and their properties, and avoid doing anything that may threaten or go against that objective;
- (c) socially, the Government takes appropriate measures in order to:
- (i) ensure that human dignity is preserved and cherished in regard to the World Human Rights Declaration and other international agreements to which Tanzania has consented;
 - (ii) ensure that the Government and all public organs offer equal opportunities to all the citizens, without discrimination on the bases of race, tribe, religion, affinity, person's status or where he is;
 - (iii) establish the culture of cooperation, consensus and compromise, traditions and the religious faith of everyone;
 - (iv) ensure that assistance and social protection are provided to people who cannot sustain themselves, the elderly, the sick, children and people with disabilities;
- (d) economically, the Government takes appropriate measures in order to:
- (i) bring to people good life and rid them of poverty;
 - (ii) ensure that Government responsibilities are implemented in ways that shall ensure that the National wealth is developed, preserved and used for the benefit of all the people, and also stop exploitation of one person by another person;
 - (iii) establish good environment for establishing and developing representative organs for farmers, livestock keepers and fishers;
 - (iv) establish good environment for doing business and develop opportunities for investment;
 - (v) prepare good environment for the development of agriculture, livestock keeping and fisheries by ensuring that farmers, livestock keepers and fishers have land and other inputs for developing their activities;
 - (vi) establish good environment for crop production for farmers, livestock keepers and fishers, develop and search for markets for their produce;

- (vii) put in place good procedures for setting fair prices of farm produce and farm inputs;
 - (viii) strengthen and develop local investment, availability of farm inputs, areas for livestock keeping and fishing gear;
 - (ix) ensure that all people have free opportunities for stating economic activities and establish an environment which is good for the purpose of encouraging the private sector in the economy;
 - (x) ensure that every person who is capable of working gets an opportunity to work, in the sense of doing any lawful activity that gives him income;
 - (xi) put in place appropriate procedures for the purpose of accomplishing the implementation of the right of a person to be educated and be free and get equal opportunities of seeking for education in a field of his choice to any level the highest level possible in accordance with his entitlement and ability;
- (e) culturally, the Government takes appropriate measures in order to:
- (i) safeguard and preserve natural heritage, antique resources and places which are historically are religiously important in order to avoid destruction, defamation and theft or remove unlawfully outside the country;
 - (ii) protect, preserve and develop traditions of people from different societies which develop and promote their dignity and statuses in ways which are not in opposition to the National Principles, and Basic Objectives and National Policies;
 - (iii) to recognize, protect and develop Kiswahili language; and
- (f) environmentally, the Government shall take appropriate measures in order to ensure that it is the duty and responsibility of every generation to protect and preserve the environment for the benefit of the current and future generations.

Foreign Policy

12. The Foreign Policy of the United Republic aims and observes National benefit and full state sovereignty and that the policy shall be implemented with transparency in order to:

- (a) develop regional and international cooperation;
- (b) develop economic cooperation which brings productivity to the nation;
- (c) bring about economic development to African countries by participating in different stages of regional economic integration;
- (d) respect international laws;
- (e) observe international treaties, regional treaties which are beneficial to the United; Republic and resolve international conflicts through dialogue, resolutions, consensus and in the court;
- (f) increase observance of human rights and people's freedom;
- (g) fight against international criminal offenses; and
- (h) respect freedom of other nations.

CHAPTER THREE
ETHICS AND PROHIBITIONS IN PUBLIC LEADERSHP AND SERVICE
PART ONE
PUBLIC LEADERS' CODE OF ETHICS

Trust of Public Leadership

13.-(1) Authority given to a leader in public service:

- (a) is a trust and he shall use that authority for discharging his responsibilities:
 - (i) by observing the conditions of this Constitution;
 - (ii) by respecting the people
 - (iii) in ways that uphold national integrity and protect the respect attached to the office which he serves; and
 - (iv) by upholding the confidence and respect the status of the office to the people;
- (g) gives responsibility to a leader to serve the people.

(2) The leadership trust and respect to a public leader shall observe the following matters:

- (a) Appointment on the bases of a person's behavior, ability, qualifications or free and fair election;

- (b) ability without favouritism in making decisions and making sure that decisions are not inclined towards relationship, religion, favouritism, graft or other unacceptable criteria,
- (c) Discharge of service without favouritism and by observing public interest by showing-
 - (i) Trustworthiness in executing public duties
 - (ii) Obligation to declare public interest in order to avoid conflict of interests.
- (d) Accountability to the public by decision-making and deeds; and
- (e) Discipline and hard work in providing service to the people.

Principles of Public Leadership

14.-(1) A public leader, when discharging either official or private duties or when is cooperating with other people, shall ensure that his character:

- (a) Does not allow the ensuing of conflicts of interest between personal interests and public service interests;
- (b) Does not threaten public interest due to personal interest;
- (c) Does not lower the status of the office which he is serving.

(2) For the purpose of the condition Sub article (1), the national authority shall put in place legal procedures which shall enable the Commission for Public Leaders' Ethics and Accountability to oversee the implementation of the conditions concerning the principles of public leadership.

(3) The title of "Public Leader" as has been used in this Part shall include elected and appointed leaders as shall be stipulated in a law to be enacted by the National Assembly.

Gifts in Public leadership

15.-(1) Gift or anything that shall be given to a public servant in public duties is a gift to the United Republic of Tanzania and shall be handed in to the Principal Secretary through the Permanent Secretary of the respective Ministry or Government institution, stipulating:

- (a) kind of gift;
- (b) value of gift;
- (c) reason for being given the gift;
- (d) person or authority that has given the gift.

(2) A Public Servant –

(a) shall not open or operate a bank account outside the United Republic except in ways that the laws of the land allow; and

(b) shall not request or accept a loan or any benefit in a way or situation that lower the status or belittle a public servant.

(c) the parliament shall enact a law that shall oversee, among other things, the value, standard, type and storage of gifts which concern the conditions of this Section and other conditions that concern the implementation of this Article.

Obligation to declare property and debts

16.-(1) A Public Leader shall be obligated to declare, within thirty days after receiving office and after leaving office, properties and their value and his debts to the Commission for Ethics and Accountability.

(2) Without prejudice to the conditions of Subarticle (1), a Public Leader shall be obligated to declare his property and debts:

(a) his personal

(b) his spouse's; and

(c) of his children who are under the age of eighteen years once every year, or as shall be prescribed by the law.

Conflict of Interest

17.-(1) A Public Leader shall not participate in any issue or activities in which he has interest, himself as a person, his spouse, child, acquaintance, friend, or any of his close relations.

(2) A Public Leader shall not talk about anything in the Cabinet, National Assembly, committee or any other official organ in which he has interest, directly or otherwise, except if he shall provide a report on the conflict of interest to those organs.

(3) It shall be prohibited for any Public Leader to participate in any way in improving benefits concerning his position, and if he shall participate, then the new

conditions shall start to be used for the public leader who shall take office after he has evacuated or completed his tenure of authority.

(4) The national Assembly shall enact a law that shall oversee, together with other things, matters of

(a) Grade or inventory of public leader, who are obligated to declare their properties.

(b) Procedure for confiscation of public leaders' properties acquired illegally

(c) Procedures for holding responsible a public leader who has gone against leaders' code of ethics.

(d) Development of curricula for ethics and citizenship in schools and colleges; and

(e) Development of curricula for the constitution in schools and colleges; and

(5) A public leader shall not be allowed to hold two or more office or serving more than one state organ at the same time.

Use of public property

18. It shall be prohibited for any public leader to use or allow to be used any public property, including those leased to the government, for the purpose of providing himself or any other person economic gains

Application of code of ethics to public servants

19. The condition stipulated in sub articles 13 to 18 shall apply also to other public servants after undergoing necessary amendment

PART TWO

CODE OF ETHICS FOR PUBLIC LEADERSHIP

Observance of Public Leaders' Code of ethics

20.- (1) Without prejudice to the conditions of the constitution, any public leader is obligated to respect and obey public leaders' code of ethics, including leadership prohibition.

(2) Leadership prohibitions being referred to in sub article (1) shall be as follows;

(a). A public leader shall not be expected to

(i). To break or violate conditions of the constitution of the united republic of Tanzania

(ii). To offer or receive bribe

(iii). To accumulate personal wealth illegally;

(iv). To deceive or provide false information;

(v). to leak government confidential information illegally;

(vi) To use his position, title or authority for his personal gains, those of his family, relations, acquaintances or friends or any person with whom he has close relationships

(vii). To commit acts of irresponsibility, idleness, disrespect or sexual

harassment.

(b). a public leader shall be obligated to;

(i).respect and promote the concept of collective accountability to the concerned leaders; and

(ii). Respect and promote public leaders discipline, including:

(aa) having manners and character that are acceptable in the society;

(bb) respecting, protecting and taking care of public property.

(cc) recognizing, respecting and observing the code of ethics

for public servants, public servants standing orders, public documents and different government circulars about public leaders and servants

(iii) distinguishing between business activities and matters relating with

leadership.

(3) Any public leader who is accused and is proven guilty of offences which are:

(a) disciplinary

(b) personal or sexual harassment; and

(c) theft or embezzlement of public property,

shall be dismissed from work until his matter has been resolved according to the law and other procedures in regard to public leaders.

Prohibitions of some acts

21.(1) No public servant employed on permanent terms shall take any other employment with a pay in terms of salary

(2) No public servant may be elected or appointed to take a leadership position in a political party

(3) No public servant who is retired and is pensioned from public funds may be chairman, director or servant for a period exceeding two terms in:

(a) a corporation or company owned or run with public funds

(b) any public organ

CHAPTER FOUR

HUMAN RIGHTS, CITIZENS' RESPONSIBILITIES AND NATIONAL AUTHORITIES

PART ONE

HUMAN RIGHTS

Freedom, dignity and equality of human beings

22.- (1) All human beings are born free, and equal.

(2) every person is entitled to recognition and respect for his dignity

The Right to Life

23. Every person has the right to live and the protection of his life by the society in accordance with the law

Prohibition against discrimination

24.- (1) All persons are equal before the law and are entitled to protection and equality before the law

(2) no person shall be discriminated against by any person, or national authority or any other authority discharging its authority under any law or in executing duty or responsibility of any national authority

(3) no law enacted by any authority in the united republic shall make any provision that is discriminatory either in itself or in its effect

(4). The civic rights, duties and interest of every person and community shall be protected and determined by the courts of law or other state agencies established by or under the law

(5). For the purpose of this article and in regard to the conditions of sub article(4) the word "discriminate" means to satisfy the needs, rights or other

requirements of different persons on the bases of their nationality, tribe, place of origin, political opinion, colour, religion, sex or station in life such that certain categories of people are regarded as weak or inferior and are subjected to restrictions or conditions whereas persons of other categories are treated differently or are accorded opportunities or advantage outside the prescribed necessary conditions .

(6) The expression “discriminate” as used in Subarticle (2) shall not be construed shall not be construed in a manner that shall prohibit the Government from taking purposeful steps aimed at rectifying specific problems in the society.

(7) For the purpose ensure equality before the law, the state authority shall make procedures which are appropriate and which take into account the principles that-

- (a) when the rights and duties of any person need to be determined by the court of law or any other agency, that person shall be entitled to a fair hearing and to the right of appeal or other legal relief against the decision of the court or of the other agency concerned;
- (b) no person charged with a criminal offence shall be treated as guilty of the offence until proved guilty of that offence by the court;
- (c) no person shall be punished for any act which at the time of its commission was not an offence under the law,
- (d) no person shall be punished with a penalty which is heavier than the penalty in force at the time when the offence was committed;
- (e) for the purposes of preserving the right of equality of human beings, human dignity and privacy shall be protected in all activities pertaining to criminal investigations and process, and in any other matters for which a person is restrained by a state authority, or in the execution of a sentence; and
- (f) no person shall be tortured, punished in an inhumane manner or punished in a manner that belittle or defame.

The right to not being enslaved

25.- (1) every one person has the right to not being treated or made to work as a slave, not to be forced to work or humiliated, and on that ground no person shall:

(a) be made or treated as a slave

(b) be forced to work unwillingly

(c) be trafficked for the purpose of being sold or for the gains of another person

(2) the business of human trafficking is prohibited in the united republic

Personal freedom

26.- (1) every person has the right to live as a free person

(2) for the purpose of preserving the right to individual freedom and to live as a free person, no person shall be arrested, imprisoned, confined, detained, deported or otherwise deprived of his freedom save only-

(a) under circumstances and in accordance with procedures prescribed by law; or

(b) in the execution of a judgment or sentence given by the court following a decision in a legal proceeding or conviction for a criminal offence.

The right to privacy and personal security

27.-(1) Every person is entitled to respect and protection of his person, the privacy of his own person and his family and his home, not to be tortured or humiliated and also protection of his residence and private communications.

(2) For the purpose of preserving the person's right in accordance with this Article, the state authority shall lay down legal procedures regarding the circumstances, manner and extent to which the right to privacy, security of his person, his property and residence may be encroached upon without prejudice to the provisions of this Article.

Freedom of movement

28.-(1) Every citizen of the United Republic has the right to freedom of movement in the United Republic and the right to live in any part of the United Republic, to leave and enter the country, and the right not to be forced to leave or be expelled from the United Republic.

(2) Any lawful act or any law which is intended to -
(a) curtail a person's freedom of movement and to restrain or imprison him; or
(b) limit a person from exercising his freedom of movement so as to -
(i) execute a judgment or court order; or
(ii) compel a person first to comply with any obligations arising under another law; or
(iii) protect public interest in general or preserve certain special interest or interests of a certain section of the public,
such act or law shall not be construed or be held to be repugnant to the provisions of this Article.

Freedom of expression

29.-(1) Every person -
(a) has a freedom of
(i) opinion and expression of his ideas;
(ii) communicating and also has the right of not being interfered with in his communication;
(iii) innovativeness and artistry;
(iv) academic and scientific research; and
(b) has a right to be informed at all times of:
(i) various important events of life and activities of the people and also of issues of importance to the society.
(ii) execution by the state authority of national policies and social development activities; and
(iii) other matters of social importance.
(2) The implementation of the rights stipulated in Subarticle (1) shall include important duties of the people, and such duties may curtail those rights as a result of:
(a) war or political turbulence; or

- (b) propaganda about war, enticement on the bases of colour, tribe, sexual discrimination, religion or any other affair that may negatively affect the Nation.

Freedom of information and mass media

30.-(1) every person has the freedom to:

- (a) seek, receive and use news and information and disseminate that information; and
- (b) start mass media and other means of information dissemination regardless of national boundaries.

(2) The mass media shall be free and shall also have :

- (a) the right to receive, use and disseminate the information which they get.
- (b) the responsibility of:
 - (i) dissemination of news and information to the people; and
 - (ii) respecting and protecting human dignity, respect, freedom and esteem of the people against the information that they use, prepare and disseminate.
- (3) the government and its institutions, civil societies and individuals shall have the responsibility of providing information to the public about how they discharge their responsibility.
- (4) the conditions of this article shall have to observe the conditions of the law of the land to be enacted for that purpose and for that purpose and for the intent of safeguarding National security, peace, public ethics, justice, humility and freedom of other people.

Freedom of faith and religion

31. (1) Every person has freedom of expressing his opinion, faith and free will in matters of religion and has the freedom to change his religion, faith or remaining secular.

(2) the work of spreading religion, performing religious rites shall be done at will and personal save that he does not violate the laws of the land

(3) duties of mining religious communities shall outside the jurisdiction of the state

(4) the protection of stipulated in this article shall be done in accordance with the procedures made and specified by laws, which are made and specified by laws which are important in a democratic society with the purpose of security, peace, ethics and societal and national unity, and shall be supervised in supervised in accordance with procedures stipulated in the laws of the land.

(5) no person group of people or religious institution shall use the freedom to preach religion for defaming other faith and religions, propagating hatred or disharmony and chaos claiming to be fighting for a faith or religion

(6) religion or religious faith shall not be used in anyway that shall divide the people, bring misunderstandings or disrupt peace among people

(7) the term “religion” as used in this Article shall be construed as including reference to religious denominations, and cognate expressions shall be construed accordingly.

Freedom of association and cooperation with others

32.-(1) Every person is entitled to freedom, save that there is no violation of the laws of the land, to freely and peaceably assemble, associate and cooperate with other persons, and for that purpose, express views publicly and to form and join with associations or organizations formed for purposes of preserving or furthering his beliefs or interests or any other interests.

Freedom to participate in public affairs

33.-(1) Every citizen of the United Republic is entitled to take part in matters pertaining to the governance of the country, either directly or through representatives freely elected by the people, in conformity with the procedures laid down by, or in accordance with, the law.

(2) Every citizen has the right and the freedom to participate fully in the process leading to the decision on matters affecting him, his well-being or the Nation.

The right to work

34.-(1) Every person has the right to work, be it self-employment or employment by others.

(2) Every citizen is entitled to equal opportunity and right to equal terms to hold any office or discharge any function under the state authority.

The rights of employees and employers

35.- (1) Every employee has the following rights:

(a) to work without any kind of discrimination;

- (b) to be remunerated justly according to the measure and qualification for the work.
- (c) to establish and join workers' union at work place; and
- (d) to participate in the activities of the workers' union
- (2) Every employers' and employees' union shall have the right to:
 - (a) make decisions about leadership, programmes and its activities; and
 - (b) start, join and supervise their union.
- (3) every workers' union shall have the right to hold meetings dialogues with the employer and enter into schemes aimed at bettering their work lives.
- (4) The National Assembly shall enact a law that shall set conditions about employees' rights and procedures that enable employees use their rights.

The right to own property

- 36.**-(1) Every person is entitled to own property, and has a right to the protection of his property held in accordance with the law.
- (2) Subject to the provisions of Subarticle (1), it shall be unlawful for any person to be deprived of his property for the purposes of nationalization or any other purposes without the authority of law which makes provision for fair and adequate compensation and which shall be issued on time.
- (3) For the purpose of this Article, the right to ownership and protection of property shall not include property that has been proven to be acquired illegally.

The right to citizenship

37.-(1) Every citizen has the right to recognition of his citizenship and for this purpose, the state authority shall provide a legal procedure which shall enable the people to get birth certificates, national identification card without discrimination or practising any kind of discrimination, and where it is necessary, his travel documents

The right of the accused and the prisoner

- 38.**-(1) A person who is arrested or detained has the right to:
- (a) be informed in a language that he understands-
 - (i) of the reasons for his arrest;
 - (ii) of his right to not record any statement; and
 - (iii) of the consequences of recording a statement.

- (b) record a statement;
- (c) communicate with his lawyer or any other person of help to him;
- (d) not be forced to record a statement concerning his pleading guilty which shall be used as evidence against him; and
- (e) be brought before a court as soon as possible.
- (2) The authorities of the land shall prescribe legal procedure for:
 - (a) the accused to get a copy of the charges against him and records of the progress of the trial;
 - (b) the accused or prisoner to get a copy of the progress of the trial after the case is concluded in court; and
 - (c) the accused or prisoner to appear in court to prove his presence.

The right of persons who are under arrest

- 39.**-(1) A person arrested shall continue to have all the basic rights which have been stipulated in this Constitution to the extent that he deserves while he is under arrest or in detention.
- (2) A person who is arrested or detained has the right to be told why he has been arrested or detained.
 - (3) A citizen of the United Republic shall not be extradited to any country to face trial or be interrogated without his consent.

Freedom and right to clean environment

- 40.**-(1) Every person resident in the United Republic has the right to live in a clean and safe environment.
- (2) The right to live in a clean and safe environment includes the right of every citizen to use public spaces or various places that have been reserved for entertainment, delivery of educational services, medical services, for religious gatherings, cultural and economic activities.
 - (3) Any person who is resident in Tanzania is responsible for protecting the environment and informing the authorities of the land of activities or anything that is harmful or is likely to adversely affect the environment.

The right to education and learning

- 41.**-(1) Every person has the right to:
- (a) education without facing any sanctions;
 - (b) free quality primary education which prepares a pupil for further education or for being self-reliant;
 - (c) less expensive education in private institutions; and
 - (d) have equal access to higher education provided that he has the relevant qualifications for that level of education without in any way being discriminated against.
- (2) For the purposes of Subarticle (1), every person has the right to choose a profession or job he wants in accordance with his level of education or skills.

The right of the child

- 42.**-(1) Every child has the right to-
- (a) have a name and citizenship;

- (b) express his views, be heard and be protected against spite, cruelty and dehumanization;
 - (c) play and get an education
 - (d) be kept in a good environment, for those who break the law;
 - (e) a balanced diet, shelter and medical services; and
 - (f) participate in activities related to his age; and
 - (g) care and protection from his parents, guardians or an authority of the land, without being discriminated against on the basis of race, nationality, language, political ideology, origin, property, parents, religion, gender or any other kind of status.
- (2) The authority of the land shall set legal procedure for the implementation and upholding of the rights of the child in observance of the principles of setting priorities in the interest of the child.

The right and responsibilities of youth

43. Every youth has the right to participate fully in development activities of the United Republic and the society in general, for that matter, the Government of the United Republic, the Governments of the Partners of the Union and the society shall ensure that the youth have a good environment for becoming good citizens who shall participate fully in political, economic, social and cultural affairs.

The rights of persons with disabilities

44.-(1) A person with disabilities has the right to:

- (a) be respected, recognized and treated in a way which does not lower his dignity;
- (b) an education through special equipment and participate in social affairs.
- (c) have infrastructure and environment which allow him to go wherever he pleases, use transport facilities and get information;
- (d) use sign languages, written language by the aid of special machines or other methods that are appropriate;
- (e) learn with persons without disabilities; and
- (f) get a job and contest leadership posts in various sectors.

(2) The authority of the land shall specify procedure for enabling persons with disabilities to participate in representative activities.

The rights of minority groups in the society

45.-(1) The authority of the land shall specify legal procedure for enabling the minority groups in society to:

- (a) participate in leadership in the authorities of the land;
- (b) have special opportunities in education and in the economic sectors and employment opportunities; and
- (c) be given land where they traditionally live and get food.

(2) The government and authorities of the land shall take deliberate steps to promote and sustain economic activities and put in place infrastructure for residence, delivery of educational and medical services for the present and future generations of the minority groups in the society.

The rights
of women

46.-(1) Every woman has the right to:
(a) be respected;
(b) be protected from exploitation and dehumanization;
(c) participate in elections and all stages of decision-making;
(d) be paid the same kind of salary as a man;
(e) protection against discrimination, spite and dangerous customs;
(f) protection for her employment while she is pregnant and after delivery;
and
(g) quality medical services.
(2) The authorities of the land concerned shall prescribe procedure for supervising matters relating to the implementation of the provisions of this Article, including promoting dignity, security and opportunities for women, including the widows.

The rights
of the elderly

47. The authorities of the land shall put in place procedure for the elderly to:
(a) participate in social affairs;
(b) further their lives;
(c) be recognized and respected without being despised;
(d) be cared for and receive assistance from their families, the society and the authorities of the land; and
(e) be afforded opportunities to make use of their skills in the interest of the society.

PART II CITIZENS' DUTIES AND THE AUTHORITIES OF THE LAND

(a) Citizens' Duties to the Nation

Duty to
participate in
work

48.-(1) Every person has the right to-
(a) participate responsibly and honestly in lawful and productive work;
and
(a) observe work discipline and strive to attain the individual and collective production targets set by law.
(2) Notwithstanding the provisions of Subarticle (1), there shall be no forced labour in the United Republic.
(3) For the purposes of this Constitution, it is hereby declared that no work shall be deemed to be forced, cruel or humiliating labour, if such work is according to law-

- (a) work which has to be done pursuant to a judgment or order of a court;
- (b) work which has to be done by members of any force in the discharge of their responsibilities;
- (c) work which has to be done by any person due to a state of emergency or any calamity which threatens the life or well-being of the society;
- (d) any work or service which forms part of-
 - (i) routine services for ensuring the well-being of the society;
 - (ii) compulsory national service in accordance with the law;
 - (iii) the national endeavour at the mobilization of human resources for the enhancement of the society and the national economy and to ensure development and national productivity.

Duty to safeguard public property

- 49.**-(1) Every person has the duty to protect the natural resources of the United Republic, the property of the state authority, all property collectively owned by the people, and also to respect another person's property.
- (2) Every person has the duty to safeguard, preserve and sustain the resources of the land and the natural resources of the Nation.
- (3) All persons have the duty to safeguard the property of the state authority and all property collectively owned by the people, to combat all forms of waste and squander, and to manage the national economy assiduously with the attitude of people who are masters of the destiny of their nation.

Fundamental rights and duties

- 50.**-(1) Every person in the United Republic has the right to enjoy fundamental human rights and to enjoy the benefits accruing from the fulfillment by every person of his duty to society as prescribed in this Constitution.

(2) Every person in the United Republic has the right to equal protection under the laws of the United Republic.

(3) A citizen of the United Republic shall not have a right, status or special position on the basis of his lineage, tradition or descent.

(4) It is hereby prohibited for any law to confer any right, status, or special position upon any citizen of the United Republic on the basis of lineage, tradition or descent.

(5) In order that all persons may benefit from the rights and freedoms guaranteed by this Constitution, every person has the duty to so conduct himself and his affairs in the manner that does not infringe upon the rights and freedoms of others or the public interest.

(b) Duties of the Authorities of the United Republic

Preservation of human rights

51.-(1) The Government and all authorities have the duty to observe and preserve human rights as principles of freedom as stipulated in this Constitution.

(2) The rights and freedom of every person as stipulated in this Constitution shall be respected, preserved and promoted by the authorities of the land, private institutions and every citizen.

(3) The rights and freedom stipulated in international agreements concerning human rights to which the United Republic is signatory, except conditions which the United Republic has expressly indicated that it shall not be bound by, shall be part of the Human Rights specified in this Part of the Constitution.

Safeguarding of Human Rights

52.-(1) In interpreting the provisions of this Part regarding human rights, the Judiciary, the Council or any other organ concerned with decision-making shall observe the following:

- (a) the right to equality, dignity and the freedom of an individual;
- (b) international laws and human rights; and

- (c) the rights and interests of the society in general.
- (2) A person who believes that the provisions contained in this Part have been contravened by an authority, a decision-making body, or a law or any policy, against him, may file suit at the High Court by filling in a special application form in accordance with the laws of the land to demand justice.
 - (3) The Judiciary may, subject to Subarticle (1), provide explanations as it deems appropriate, impose sanctions, prohibition or order the granting of anything that a person has been denied.
 - (4) A suit demanding constitutional rights in accordance with the provisions of this Article may be filed in Court by:
 - (a) a person who represents himself or an association which represents its members;
 - (b) a person who represents a person who cannot represent himself in accordance with the law; or
 - (c) a person who represents a group of persons with similar goals or a society of persons whose rights are have been violated.

Limitations upon human rights

- 53.**-(1) All the rights contained in this Part of the Constitution, where it is necessary to limit them, such limitations shall be applied transparently and democratically by observing dignity, equality, freedom and important qualifications, including:
- (a) the type of the right;
 - (b) the importance and reasons for setting limitations;
 - (c) the nature and size of a particular limitation;
 - (d) the relationship between the limitation and the reason for setting it;
 - (e) simple ways of achieving the objectives of applying a particular limitation; or
 - (f) the importance of safeguarding the security of the country.
- (2) Parliament shall enact legislation, which, among others, shall supervise the application of the provisions of this Article.

CHAPTER V CITIZENSHIP

Citizenship of the United Republic

54.-(1) A person who, before this Constitution comes into operation, is a citizen of the United Republic shall continue to be a citizen of this country when the Constitution comes into operation.

(2) There are two types of the citizenship of the United Republic, by birth and by registration.

55.-(1) Every person who is born in Mainland Tanzania or Zanzibar shall be a citizen of the United Republic if, on the date of his birth, either of his parents is or was a citizen of the United Republic.

(2) Subject to the provisions of this Constitution, a person who was born outside Tanzania shall be a citizen of the United Republic by birth from the date he is born if his parents or either of his parents is a citizen of the United Republic.

(3) If either of the parents dies before that person is born, the citizenship of the dead person shall be recognized at the time of his death for the purposes of recognizing the citizenship of that person after the death of the parent as though the dead person was alive at the time the person was born.

(4) If a child who has not attained the age of seven years is found in the United Republic and his parents are not known, then the child shall be considered a citizen of the United Republic.

(5) A child who is below eighteen years of age and whose parents are not citizens of Tanzania, if he is adopted by a Tanzanian citizen, by his being so adopted, shall qualify to be a citizen of the United Republic.

Citizenship by registration

56.-(1) Soon after this Constitution comes into operation, a person who has been resident in Mainland Tanzania or Zanzibar for the period prescribed by the law used in Mainland Tanzania or Zanzibar, and who has fulfilled all the provisions set out by the Assembly of Mainland Tanzania or the House of

Representatives of Zanzibar, may apply for the citizenship of the United Republic.

(2) A person who is married to a citizen of the United Republic may apply for the citizenship of the United Republic.

(3) If the marriage mentioned in Sub article (2) breaks up, and if that person did not terminate his citizenship, he shall continue to be a citizen of the United Republic.

(4) A child who is born into a marriage specified in Sub article (2) shall continue to be a citizen of the United Republic, except if he terminates that citizenship or applies for and obtains the citizenship of another country.

(5) Parliament shall enact legislation for, among others, supervising matters concerning the citizenship of the United Republic.

CHAPTER VI

STRUCTURE OF THE UNITED REPUBLIC

The structure of the Union

57.-(1) The United Republic shall be a federation with three governments, that is to say:

- (a) the Government of the United Republic of Tanzania;
- (b) the Revolutionary Government of Zanzibar; and
- (c) the Government of Mainland Tanzania.

(2) The affairs of the United Republic shall be discharged and supervised by:

- (a) the Government of the United Republic;
- (b) the National Assembly of the United Republic; and
- (c) the Judiciary of the United Republic.

(3) The structure, authority and functions of the Government of Mainland Tanzania and the Revolutionary Government of Zanzibar shall be set out in the Constitutions of the Partners of the Union.

Executive organs of the United Republic

58.-(1) The Government of the United Republic shall be the executive organ, the National Assembly shall be the organ charged with the task of enacting laws relating to Union Matters and supervising the discharge of the functions of the Government of the United Republic and the Judiciary shall be responsible for dispensation of justice.

(2) Every organ mentioned in this Article shall be established and shall discharge its functions in accordance with the provisions of this Constitution.

The authority of the Government of the United Republic

59.-(1) The Government of the United Republic shall have the power to implement all Union Matters, and at the time of discharging its duties, it shall observe the authority vested in it by this Constitution.

(2) The discharge of the functions of the Government shall be done in compliance with the principles prescribed by this Constitution or by an Act of Parliament.

(3) Without prejudice to the provisions of this Article, the Government of the United Republic, by special conditions and in agreement with the Revolutionary Government of Zanzibar or the Government of Mainland Tanzania, may discharge any function under the authority of the Revolutionary Government of Zanzibar or the Government of Mainland Tanzania in accordance with the conditions of the agreement.

Union matters

60. For the purposes of ensuring effective discharge of the functions of the Government of the United Republic, and for the purposes of sharing authority over such functions among the organs mentioned in Article 58, the Government of the United Republic shall have authority over the Union Matters listed in the Schedule.

The Partners of the Union

61.-(1) According to this Constitution, the Partners of the Union are

Mainland Tanzania and Zanzibar.

(2) The Government of Mainland Tanzania shall have authority over all non-Union Matters relating to Mainland Tanzania.

(3) The Revolutionary Government of Zanzibar shall have authority over all non-Union Matters relating to Zanzibar.

(4) The Partners of the Union shall discharge their duties by observing the provisions of this Constitution and the provisions of their Constitutions.

(5) The Partners of the Union shall have the same status and equal rights within the United Republic and shall discharge their duties relating to all non-Union Matters within the authorities of the Partners of the Union pursuant to the conditions prescribed by the Constitutions of the Partners of the Union.

The authority of the Partners of the Union

62.-(1) Each Partner of the Union shall have the right to and authority over all non-Union Matters and in exercising such authority, each Partner of the Union shall observe equality and the rights of the people of both parts of the United Republic.

(2) Without prejudice to the limitations prescribed by this Constitution, each Partner of the Union shall have the capacity and freedom to establish relations or cooperation with any regional or international community or organizations on matters under its authority pursuant to its Constitution.

(3) Any Partner of the Union may, in the discharge of its duties in accordance with Sub article (2), cooperate with the Government of the United Republic to achieve cooperation with regional or international community or organizations, and the Government of the United Republic may provide such cooperation to the partner as necessary.

The relations between partners of the Union

63.-(1) Each Partner of the Union may, in discharging its functions in various sectors, discharge such functions through cooperation or consultation with the other Partner of the Union or through cooperation between one Partner of the Union and the Government of the United Republic for the purposes of promoting and

safeguarding the interests of the Nation and the interests of the people of the United Republic.

- (2) The Partners of the Union and the Government of the United Republic may consult or cooperate with each other on matters of leadership, administration, representative and legal organs.
- (3) The operation of the Governments of the Partners of the Union or any organ of such governments and the discharge of the duties shall be discharged in accordance with the unity of the United Republic and the intention and need to maintain the national unity and sovereignty.

Resident Ministers

64.-(1) Each Partner of the Union shall appoint a Resident Minister who shall coordinate and supervise relations between one Government of a Partner of the Union and another or between the Government of a Partner of the Union and the Government of the United Republic.

- (2) Resident Ministers shall have offices and shall discharge their duties at the seat of the Government of the United Republic.
- (3) In addition to the duties to be assigned to them by the Governments of the Partners of the Union, Resident Ministers shall have the following responsibilities:
 - (a) To deal with non-Union Matters concerning international cooperation or relations; and
 - (b) To connect the Government of the United Republic and to the Governments of the Partners of the Union and to connect one Government of a Partner of the Union to another.

The authority of the people

65.-(1) The Government of the United Republic shall derive its authority and power from the people through democratic elections which shall be conducted and supervised by an organ which shall be given the authority to do so by this Constitution, and also, the Government of Mainland Tanzania and the Revolutionary Government of Zanzibar shall derive their authority and power through democratic elections which shall be conducted

and supervised by organs which shall be given the authority to do so by their Constitutions.

(2) The Governments of the Partners of the Union, in the discharge of their duties, shall be responsible for promoting the authority of the people by delegating power to local governments which shall be formed in accordance with the Constitution of Mainland Tanzania or the Constitution of Zanzibar as the case may be.

The duty to safeguard the Union

66.-(1) Without prejudice to the duties of every citizen as specified by this Constitution, all principal leaders with executive authority in the United Republic mentioned in Sub article (3) shall have the duty, in the discharge of the duties prescribed by this Constitution or by the Constitutions of the Partners of the Union, to uphold, strengthen and maintain the Union.

(2) For the purposes of the provisions of Sub article (1), each of the principal leaders mentioned in Sub article (3), before assuming office, shall swear that he shall defend and maintain the Union in accordance with this Constitution.

(3) The principal leaders to whom these provisions apply are:

- (a) the President of the United Republic;
- (b) the Vice-President of the United Republic;
- (c) the President of Mainland Tanzania; and
- (d) the President of Zanzibar.

CHAPTER VII THE GOVERNMENT OF THE UNITED REPUBLIC

PART I GOVERNMENT, PRESIDENT AND VICE-PRESIDENT

(a) Government

The Government of the United Republic

67.-(1) There shall be a Government of the United Republic which shall consist of the President, the Vice-President and the Ministers of the United Republic.

(2) The Government of the United Republic shall have authority over all Union Matters relating to the United Republic.

(3) The authority of the Government of the United Republic shall be over the implementation and upholding of this Constitution and over other matters to be prescribed by the laws of the land.

(4) The authority of the Government of the United Republic shall vest in the President, or by delegating such authority to the Vice-President or in any persons with authority in the Service of the Government of the United Republic.

(5) The provisions contained in this Article shall not be construed as:

(a) transferring to the President any powers which by the law have been conferred to another person or authority other than the President; or

(b) preventing Parliament from conferring power upon any person or authority other than the President.

(b) The President

The President of the United Republic

68.-(1) There shall be a President of the United Republic.

(2) The President of the United Republic shall be the Head of State, the

Head of Government and the Commander-in-Chief of the Armed Forces and:

(a) shall be the symbol and image of the United Republic of Tanzania and its people;

(b) shall be the symbol of the unity and freedom of the country and its sovereignty; and

(c) shall have the duty to uphold and preserve the national unity.

The authority and duties of the President

69.-(1) As Head of State, the President shall have the following duties:

(a) to implement and uphold this Constitution;

(b) to safeguard the nationality of the United Republic of Tanzania;

(c) to address and formally launch New Parliament and to dissolve Parliament at the end of its life;

(d) to address and formally launch the Calendar of the Judiciary;

- (e) to authorize the tabling of Government revenue and expenditure budgets, budgets of the National Assembly and of the Judiciary in a fiscal year;
 - (f) to assent to a Bill of Law which has been passed by Parliament;
 - (g) to award medals of honor on behalf of the People of the United Republic;
 - (h) to appoint Ambassadors, persons who shall represent Tanzania outside the country and representatives of the country in various international organizations;
 - (i) to receive introductory certificates of foreign Ambassadors who are in the country;
 - (j) to grant pardon to any person serving a prison sentence given by a Court in accordance with the laws of the land; and
 - (k) to authorize implementation of a death sentence which has been given in accordance with the laws of the land.
- (2) As Commander-in-Chief of the Armed Forces, the President shall have the following authority and duties:
- (a) to be the Chairman of the National Defense and Security Council;
 - (b) to declare war and to end it;
 - (c) to sign peace agreements to end a war;
 - (d) to declare a state of emergency or to declare that a certain area is under siege;
 - (e) to appoint Commanders of the defense and security organs; and
 - (f) to promote officers of the defense and security organs to various ranks and to grant commission to the officers of the Tanzania People's Defense Force.
- (3) As Head of Government, the President of the United Republic shall have the following authority and duties:
- (a) to chair the meetings of the Cabinet of the United Republic;
 - (b) to plan, direct, supervise and coordinate the functions of Government ministries and institutions;
 - (c) to appoint Ministers and Deputy Ministers of the United Republic;
 - (d) to appoint the Chief Secretary and Permanent Secretaries;
 - (e) to appoint the Chief Justice and the Deputy Chief Justice of the Government; and
 - (f) to appoint commissioners to various Committees which have been formed in accordance with the provisions of this Constitution.
- (4) In the discharge of his duties pursuant to this Article, the President shall not align himself, in any way, with any political party or any group in a manner that affects the unity of the people.

Discharge of the duties of President

- 70.**-(1) In the discharge of the duties of President pursuant to this Part and in accordance with the provisions of Subarticle (3), the President has authority to institute or revoke leadership positions in the Service of the Government of the United Republic.
- (2) The President shall have authority to appoint persons responsible for formulating policies for Government departments and institutions and chief executives responsible for supervising and implementing the policies of such

departments and institutions in the Service of the Government of the United Republic.

(3) In the discharge of the duties as specified in Sub articles (1) and (2), the President shall observe the provisions concerning confirmation of his appointments by Parliament and the advice given to him by Government authorities and the Judiciary which are vested with the authority to advise him on matters of appointing persons to various leadership positions and instituting or revoking leadership positions in the Service of the Government.

(4) The authority to appoint any other persons who are neither leaders nor chief executive to positions in the public service in the United Republic, and the powers to promote them, to demote them, to dismiss them, to suspend them and the powers to maintain the discipline of persons who hold certain positions shall be the responsibility of the Secretariat for Public Service and the authorities which are specified and given such powers by the laws of the land.

(5) The provisions of Sub articles (2) and (3) shall not be construed to prohibit the President to take steps of maintaining the discipline of public servants and the public service in the Government of the United Republic.

President to be obligated to take advice

71.-(1) Apart from complying with the provisions contained in this Constitution and the laws of the land, the President shall be obliged to take advice given to him by the state authorities, and where he disagrees with the advice given, he shall be required to give reasons to the Cabinet as to why he disagrees with the advice.

(2) For the purposes of Sub article (1), the President shall not be obliged to take advice given to him, which is inconsistent with the provisions of the Constitution or which does not promote or preserve the interests of the United Republic or of the majority of citizens.

The President's inability to discharge the functions of his office

72.-(1) Where the Cabinet finds that the President is unable to discharge the functions of his office by reason of physical or mental infirmity, it may submit to the Chief Justice a resolution requesting him to certify that the President by reason of physical or mental infirmity is unable to discharge the functions of his office.

(2) Upon receiving a resolution which has been submitted in accordance with Sub article (1), the Chief Justice shall appoint a medical board to inquire into that issue and advise the Chief Justice accordingly.

(3) The Chief Justice may, after considering the medical evidence, present to the Speaker a certificate certifying that the President, due to physical or mental infirmity, is unable to discharge the functions of his office; and if the Chief Justice does not rescind that

certificate within seven days for the reason that the President's condition has improved and he has resumed work, then it shall be deemed that the office of the President is vacant, and the provisions contained in Sub articles (5) and (6) shall apply.

(4) The medical board to be appointed in accordance with Sub article (3) shall consist of not less than three persons from amongst experts recognized as such by the law governing medical practitioners in Tanzania.

(5) Where the office of President becomes vacant by reason of death, resignation, loss of electoral qualifications or inability to perform his functions due to physical infirmity, or failure to discharge the duties and functions of President, then the Vice-President shall be sworn in for the unexpired period of five years, and in accordance with the conditions set out in article 76.

(6) Upon being sworn in, or otherwise, for a period of not more than fourteen days from the date he was sworn in, the President:

(a) after consultation with his political party; or

(b) after consultation with the National Defense and Security Council,

for a President who contested for the presidency as an independent candidate,

shall appoint a person as the Vice-President and such appointment shall be confirmed by the National Assembly by votes of not more than fifty percent of all the Members of Parliament.

Discharge of duties and functions of President

73.-(1) Where the office of President becomes vacant, in accordance with the conditions contained in Article 72, or if the office of President is vacant for any other reason, and where the President is absent from the United Republic, the duties and functions of President shall be discharged by one of the following in the order specified, that is to say-

(a) the Vice-President, or if his office is also vacant or if he is also absent or is ill, then

(b) a Senior Minister; or

(c) if the office of a Senior Minister is vacant or if he is also absent or is ill, then any other Minister who shall be appointed by the Cabinet.

(2) Where any of the persons set out in paragraphs (a), (b) and (c) of Subarticle

(1) is discharging the duties and functions of President by reason that a person who precedes him on the above list is absent, then that person shall cease to discharge the duties and functions once that person returns to the country and starts to perform the duties and functions of President.

(3) No person who is discharging the duties and functions of President, in anyway, shall perform the following functions:

(a) to appoint or remove any leader who has been appointed by the President in accordance with the Constitution; or

(b) any other matter stipulated by the President in the letter delegating his duties and functions to such a person.

(4) For the purposes of Subarticles (2) and (3), the President shall delegate his duties and functions by writing a letter to which he shall append his signature.

(d) Election of the President

Election of President

74.-(1) The President shall be elected by the citizens in accordance with the provisions of this Constitution and the laws of the land.

(2) The office of President shall be vacant and the election of the President shall be held after the expiration of his tenure of office in accordance with this Constitution.

(3) The election of the President shall not be held in case of the occurrence of any of the following, instead the position shall be filled by the Vice-President, in accordance with the provisions of this Constitution, that is to say:

(a) Resignation of the President;

(b) Disqualification of the President from holding elective office;

(c) Removal of the President from office following his impeachment by the National Assembly pursuant to the provisions of this Constitution;

(d) Certification that the President is not able to perform the duties and functions of President; or

(e) The death of the President.

Qualifications of President

75. A person shall be eligible to be elected as President of the United Republic if:

(a) he is a citizen of the United Republic by birth in accordance with this Constitution and the laws of the land;

(b) he is of sound mind;

(c) at least one of his parents is a citizen of the United Republic by birth;

(d) he has attained the age of forty years;

(e) he is qualified to be a Member of the National Assembly of the United Republic in accordance with his Constitution;

(f) he is a holder of at least a first degree from a university recognized by the accreditation authority of the United Republic;

(g) he is a member of, and a candidate nominated, by a political party or he is an independent candidate;

(h) his policies or the policies of his party are not aimed at destroying the National unity on the basis of tribe, religion, race or gender;

(i) he is a person of integrity and respects the National ethics;

- (j) his conduct is not questionable in the eyes of the public;
- (k) he has not been convicted by any court of an offence relating to his being dishonest;
- (l) within the period of five years before General Elections, he has not been convicted by any court of an offence relating to evasion to pay any tax due to the Government.

Eligibility for re-election

76.-(1) Any person who holds office as President shall be eligible for re-election to that office for a period of another five years.

(2) No person shall be elected more than twice to hold the office of President.

(3) A person who has been President of Mainland Tanzania or Zanzibar shall not be disqualified from being elected President of the United Republic on grounds that he has been President of Mainland Tanzania or Zanzibar.

(4) Where the Vice-President holds the office of President in accordance with the provisions of Article 72 for not more than thirty six months, he shall be eligible to contest for the office of President in the next presidential election.

(5) A person who has been elected President, in accordance with the provisions of Subarticle (4), shall be considered to have held the office of President for two terms and shall not be allowed to contest for the office of President again.

Procedures for the election of President

77.-(1) In Presidential Election, every political party that intends to participate in the election shall, in accordance with the laws of the land, submit to the Independent Electoral Commission the name of a person who is nominated as candidate of the Presidential Election.

(2) If he is an independent candidate, who meets the qualifications specified in this Constitution, he shall submit his name to the Independent Electoral Commission.

(3) The names of the candidates shall be submitted to the Independent Electoral Commission on a date and time appointed in accordance with the laws of the land.

(4) Where on the date and time appointed for the purpose of submission of the names of the candidates, only the name of one candidate is validly submitted, the

Independent Electoral Commission shall present his name to the electorate who shall vote either for or against the candidate in accordance with the procedures specified by the laws of the land.

(5) The election of the President shall be held on a date to be appointed by the Independent Electoral Commission in accordance with the laws of the land.

(6) Any presidential candidate shall be declared a duly elected President if he has obtained more than fifty percent of the votes cast.

(7) Where no presidential candidate has fulfilled the provisions of Subarticle (6), another presidential election shall be held within sixty days involving the two top candidates.

Petitions against credibility of Presidential election

78.-(1) Subject to the provisions of Subarticle (2), any candidate of a presidential election, who has misgivings about the election, may file a petition at the Supreme Court to challenge the declaration of a particular candidate as President-elect by the Independent Electoral Commission.

(2) The petitions challenging the results of a presidential election shall be submitted to the Supreme Court within seven days from the date the results of the election were declared.

(3) The Supreme Court shall hear the petitions challenging the results of a presidential election and deliver judgment within fourteen days from the date the petitions were filed in accordance with Subarticle (2) and its decision shall be final.

(4) For the purposes of Subarticle (3), the Supreme Court may deliver judgment and provide reasons in respect of the judgment within thirty days from the date the judgment was made.

(5) Where the Supreme Court decides that the results of the presidential election are void, the presidential election shall be repeated within sixty days from the date the judgment was delivered.

Oath of office of President

79.-(1) The President-elect shall be sworn in by the Chief Justice and shall assume the office of President as soon as possible, after being declared to have been elected as President, but, under any circumstances, he shall not assume the office of President before

the expiration of thirty days since the declaration of the presidential results by the Independent Electoral Commission or confirmation by the Supreme Court.

(2) Except where the President-elect dies or resigns, he shall hold the office of President for five years from the date he is elected as President.

(3) The President shall hold the office of President until-

(a) the day the President-elect takes the oath of office;

(b) the day he dies while in office;

(c) the day he resigns from office; or

(d) the day he ceases to discharge the duties and functions of President in accordance with the provisions of this Constitution.

(a) Terms of Office of the President

Power to declare war

80.-(1) Pursuant to the provisions of this Article, the President shall have the power to declare the existence of a state of war between the United Republic and any other country or any group upon receiving a resolution from the National Assembly.

(2) Notwithstanding the provisions of Subarticle (1), where the United Republic has been invaded or any group has waged a war within the United Republic, then the President may, after consultation with the National Defence and Security Council, declare the existence of a state of war within the United Republic.

(3) After making the declaration in accordance with Subarticle (2), the President shall transmit a copy of such a declaration to the Speaker of the National Assembly who shall, within fourteen days from the date of the declaration, convene a meeting to inform the Members of Parliament of the declaration of war made by the President.

Power to declare state of emergency

81.-(1) Without prejudice to the provisions of this Constitution, or a law which has been enacted by Parliament for that purpose, the President may, after consultation with the National Defence and Security Council, declare a state of emergency or invasion of a certain area or the whole of the United Republic.

(2) The President shall only declare a state of emergency if-

(a) the United Republic is at war;

(b) the United Republic is in danger of being attacked and thus may be at war;

(c) lack of peace in the society or lack of security of the society in the United Republic or in any part of the United Republic to the extent that it is necessary to take specific steps so as to restore peace and security;

(d) there is real, great danger which jeopardizes peace in the society and may destroy the security of the citizens of the United Republic or of any of its parts, which, unless specific steps are taken, cannot be avoided;

(e) a devastating event is about to take place or a devastating disaster threatens the society or a section of the society in the United Republic; or

(f) there is a different type of danger that threatens the security of the United Republic.

(3) If it is declared that a state of emergency exists in the United Republic or part of the United Republic, the President shall transmit a copy of such declaration to the Speaker of the National Assembly, who, within fourteen days from the date of the declaration, shall convene a meeting to inform the Members of Parliament of the declaration made by the President.

(4) The National Assembly may enact a law which imposes conditions on the time and procedures which shall enable government officials in the areas concerned to use the powers vested in them by this Article regarding any of those areas if any of the states specified in paragraphs (c), (d) and (e) of Subarticle (2) exists in any of those areas and it does not affect other areas, and also for the purpose of clarifying the discharge of the authority of Government in times of emergency.

(5) The declaration of the state of emergency made by the President in accordance with this Article shall cease to be used if it is revoked by the President.

(6) For the avoidance of doubt in the interpretation or application of the provisions of this Article, the provisions of an Act of Parliament and of any other law concerning the declaration of a state of emergency as stated in this Article, shall only be applied in a part of the United Republic if that state of emergency has been declared.

Prerogative of mercy

82.-(1) In his capacity as President of the United Republic, the President has the power to:

(a) grant a pardon to any person convicted by a court of law of any offence against the United Republic, specific conditions as shall be specified by an Act of Parliament; or

(b) substitute a life sentence for a death penalty.

(2) The provisions of this Article shall apply to any person who has been convicted while he is in Zanzibar and to punishments administered in Zanzibar pursuant to the law which has been enacted by Parliament which is used in Zanzibar, in addition, such provisions shall apply to any person who has been convicted in Mainland Tanzania in accordance with a law which has been enacted by Parliament which is used in Mainland Tanzania.

(3) For the purposes of this Article, there shall be a National Advisory Committee which shall advise the President on prorogation of mercy to any person who has been convicted by a court of a law and who is serving a sentence.

(4) Pursuant to this Constitution, the procedure and way of exercising the powers, composition, responsibilities of running the National Advisory Board shall be specified by an Act of Parliament.

Protection
against
prosecution
of President

83.-(1) While he is still in office, the President shall not be prosecuted and no person shall take him to court for any criminal offence.

(2) While the President is in office in accordance with this Constitution, it shall be prohibited for any person to sue the President for commission or omission of anything which he did before or after assuming the office of President, save if the President is served notice thirty days before the case is filed in accordance with the procedure specified by an Act of Parliament, and such notice shall provide information regarding the source of the case, the name and place of residence of the plaintiff.

(3) Except where the President ceases to hold the office of President if a vote of no confidence in him is taken, it shall not be lawful for any person to sue a person who has been holding the office of President for a criminal or civil offence which he committed while he was still in office.

Parliament
to impeach
president

84.-(1) Parliament may pass a resolution for the purpose of removing the President from office if a motion to impeach him is passed pursuant to the provisions of this Article.

(2) Without prejudice to the other provisions of this Article, no motion aimed at removing the President from office shall be presented unless it is claimed that the President has committed one of the following:

(a) has greatly contravened the provisions of this Constitution;

(b) has committed serious criminal offences;

- (c) prevented in any way an inquiry into his conduct in accordance with this Article to be carried out;
 - (d) treason;
 - (e) corruption;
 - (f) his behaviour tarnishes the office of President of the United Republic;
 - (g) ignores or refuses to implement a lawful decision or orders given by the Judiciary;
 - (h) has behaved in such manner as to contravene the code of conduct or leadership ethics;
- (3) Parliament shall not pass a resolution seeking to impeach the President, except if:
- (a) such motion is not given within twelve months from the date a motion of that kind was given and rejected by Parliament; and
 - (b) written information, which is supported and signed by over twenty five per cent of all the Members of Parliament, is submitted to the Speaker fourteen days prior to the presentation of the motion seeking to impeach the President in Parliament.
- (4) The written information to be presented in Parliament in accordance with subarticle (3)(b) shall clarify the offences which the President has committed, and shall suggest that a Commission of Inquiry to inquire into the allegations which have been made against the President should be formed.
- (5) At any time after receiving the written information which has been signed by the Members of Parliament and after being satisfied that the Constitutional provisions relating to the proposal to impeach the President have been followed, the Speaker shall ask a person to present his motion to the National Assembly and then the Speaker shall ask the Members of Parliament to, without discussion, vote over a motion to form a Commission of Inquiry.
- (6) Where the motion to form a Commission of Inquiry is supported by not less than seventy five percent of all the Members of Parliament, the Speaker shall announce the names of the members of the Commission of Inquiry.
- (7) The Commission of Inquiry, for the purpose of this Article, shall consist of the following:
- (a) the Chief Justice of the United Republic, who shall be the Chairman of the Commission;
 - (b) the Chief Justice of Mainland Tanzania;
 - (c) the Chief Justice of Zanzibar; and
 - (d) six other members who shall be appointed by the Speaker.
- (8) Where the motion to form a Commission of Inquiry is supported by Parliament, the President shall be considered to be absent from office and the functions of the office of President shall be discharged by the Vice-President until the Speaker informs the President of a Resolution of the Assembly regarding the charges against him which have been presented.
- (9) Within seven days from the date the Commission of Inquiry was formed, the Commission shall inquire into and analyze the charges levelled against the President, including affording the President an opportunity to defend himself, pursuant to the procedure specified by the Standing Orders of the Assembly.

(10) As soon as possible, and in any way within a period of not more than ninety days, the Commission of Inquiry shall submit its report to the Speaker.

(11) After the Speaker has received the report from the Commission of Inquiry, the report shall be tabled in Parliament in accordance with the procedure specified by the Standing Orders of the Assembly.

(12) After the presentation of the report of the Commission of Inquiry, the Assembly shall discuss the report and afford the President an opportunity to defend himself, and then by votes of not less seventy five per cent of all the Members of Parliament, the Assembly shall pass a resolution indicating whether the charges levelled against the President have been confirmed or not.

(13) Where the National Assembly has passed a resolution which shows that the charges against the President have been confirmed and that he cannot continue to hold the office of President, the Speaker shall inform the President of the resolution and he shall have ceased to be President and the Vice-President shall take oath of office as President at once.

(14) Where the President ceases to hold the office of President due to the confirmation of the charges against him, he shall lose his right to pension, remuneration or allowances given to the President or any person who has been President in accordance with the Constitution and the laws of the land.

Salary
and
allowances
of President

85.-(1) The President shall be paid a salary and other allowances as shall be specified by the Secretariat for Public Service and on retirement he shall be entitled to receive a pension and other allowances which shall be a charge upon the Consolidated Fund.

(2) The salary and any allowances payable to the President shall not be lowered while the President is still in office in accordance with this Constitution.

(e) The Vice-President

Vice-President
of the United
Republic

86.-(1) There shall be a Vice-President who shall be the Principal Assistant of the President in all matters relating to the United Republic in general and shall:

- (a) perform all the duties which the President has assigned him;
- (b) be the Chairman of the Government Relations Commission; and
- (c) exercise the functions of the office of President if the President is not in office or is absent.

(2) In the exercise of his powers, the Vice-President shall discharge or shall cause to be discharged any duties assigned by the President.

(3) Without prejudice to the provisions of this Constitution, the Vice-President shall be answerable to the President in the discharge of his functions.

87.-(1) Without prejudice to the provisions of Article 72, the Vice-President shall be elected along with the President, after being nominated by his political party or by an independent presidential candidate at the time when a presidential candidate is nominated and they shall be elected together.

(2) Where a Presidential Candidate has been elected, then the Vice-President shall have been so elected.

(3) A person shall be nominated to contest the post of Vice-President on condition that if a presidential candidate for President of the United Republic hails from one part of the United Republic, then the Vice-President shall be a person from the other part of the United Republic.

Qualifications of Vice-President **88.**-(1) A person shall not be nominated to contest the post of Vice-President of the United Republic, except if he is qualified to be elected as President.

(2) Any political party or any person who intends to run for President as an independent candidate shall not be precluded from nominating any person to contest the post of Vice-President solely on the grounds that at that time that person is holding the office of President of Zanzibar or Mainland Tanzania.

(3) During his tenure of office, the Vice-President shall not hold any other Government office which has been specified in this Constitution or by an Act of Parliament.

(4) Where a person who is the President of Mainland Tanzania or the President of Zanzibar is nominated or elected as Vice-President then he shall cease to be the President of Mainland Tanzania or the President of Zanzibar as may be necessary.

Oath of office of Vice-President **89.** The Vice-President, before assuming office, shall be sworn in by the Chief Justice of the United Republic and take and subscribe the oath of allegiance and any other oath relating to his functions which shall be prescribed by an Act of Parliament.

Assuming office of Vice-President **90.**-(1) The Vice-President shall assume office at the same time as the President assumes office.

(2) The Vice-President who has been nominated pursuant to Article 72 shall take an oath and shall assume office after being confirmed by the National Assembly.

(3) Except if he resigns or dies in office, a person who has been elected or appointed as Vice-President, subject to the provisions of this Article, shall hold the office of Vice-President for a period of five years from the date he was so elected.

(4) The Vice-President shall hold that office until-

(a) the end of his tenure;

(b) he dies in office;

(c) he resigns;

(d) he is sworn in as President when the office of President becomes vacant;

(e) he is convicted of any criminal offence relating to misconduct;

(f) another President and his Vice-President are sworn in;

(g) he is removed from office after being impeached by the National Assembly subject to the provisions of this Constitution; and

(h) he otherwise ceases to hold the office of Vice-President pursuant to the provisions of this Constitution.

Parliament to impeach Vice-President

91.-(1) Parliament shall have the powers to impeach the Vice-President in accordance with the procedure for impeaching the President subject to this Constitution, except, a motion to impeach the Vice-President shall be presented if:

- (a) The President has submitted notice to the Speaker explaining that the Vice-President has resigned or failed to exercise the functions of Vice-President;
- (b) He behaves in a way that tarnishes the office of Vice-President of the United Republic or the post of Vice-President is vacant; or
- (c) He is accused of having committed any one of the offences which may cause the Vice-President to be impeached by Parliament subject to this Constitution, except if, no motion of that kind has been presented within twelve months from the date a motion to impeach the Vice-President was presented and rejected by the National Assembly.

(2) The other provisions which are used to impeach the President shall be applied to remove the Vice-President from office.

(3) If the office of Vice-President becomes vacant, subject to the provisions contained in subarticle (1), death or resignation, then as soon as possible and possibly within a period of not more than fourteen days after assuming office, the President shall appoint another Vice-President and that appointment shall be confirmed by the National Assembly by votes of a majority of the Members of the Assembly.

(4) All the provisions contained in Article 84 shall also be applied to matters concerning the Vice-President, except that the Vice-President who has been removed from office in accordance with subarticle (3) shall not be qualified to be President, Vice-President, President of Mainland Tanzania or President of Zanzibar.

(5) Where the Vice-President ceases to hold the office of President due to the confirmation of the charges against him, he shall lose his right to pension, remuneration or allowances given to the President or any person who has been President in accordance with the Constitution and the laws of the land.

PART II
THE CABINET AND THE GOVERNMENT OF THE UNITED REPUBLIC

(a) The Cabinet

Establishment of the Cabinet

92.-(1) There shall be a Cabinet of the United Republic which shall consist of the following members:

- (a) the Vice-President of the United Republic; and
- (b) the Ministers of the United Republic.

(2) The Attorney General shall attend the meetings of the Cabinet but shall have no right to vote at such meetings.

(3) The Cabinet is the principal organ which advises the President on matters relating to the exercise of the powers and functions of the office of President.

(4) The National Assembly and the Judiciary shall have no jurisdiction to inquire into whether any advice or what kind of advice has been given to the President by the Cabinet.

Appointing of Ministers and Deputy Ministers

93.-(1) There shall be Ministers and Deputy Ministers of the United Republic who shall be appointed by the President in consultation with the Vice-President and they shall be confirmed by Parliament.

(2) For the purposes of Subarticle (1), the number of Ministers of the United Republic shall not exceed fifteen.

(3) The Government of the United Republic shall have Ministries which shall be formed in accordance with the authority of the Government subject to this Constitution.

(4) The appointment of Ministers and Deputy Ministers shall consider equal representation of the Partners of the Union.

(5) The responsibility of the Ministers and Deputy Ministers shall be as may be specified by the President in the letter of appointment.

Qualifications of Ministers and Deputy Ministers

94.-(1) A person shall be appointed as Minister or Deputy Minister of the United Republic provided that:

(a) he is a citizen of the United Republic by birth in accordance with the laws of the land;

(b) he holds a degree from a university recognized by the accreditation authority of the land.

(2) The following persons shall not be qualified to be appointed Ministers and Deputy Ministers of the United Republic:

(a) the Members of the National Assembly of the United Republic, the Members of Parliament of the National Assembly of Mainland Tanzania, the Representatives of the Representative Council of Zanzibar or councillors from the Partners of the Union; and

(b) a person who has been convicted of embezzlement of public property be it in the Government of the United Republic, the Government of Mainland Tanzania or the Government of Zanzibar.

Oath and tenure of

95.-(1) A Minister or Deputy Minister shall not discharge his functions until he has been sworn in by the President and has taken and subscribed any other oath

office of Ministers and Deputy Ministers which shall be prescribed by the laws of the land.

(2) A Minister or Deputy Minister shall start to discharge his functions from the date he was sworn in.

(3) Every Minister is answerable to himself and to the President in the discharge of his duties and functions as Minister.

(4) A Minister shall discharge his functions, except if:

- (a) he reigns or dies;
- (b) the President revokes the appointment or removes him from office; or
- (c) twenty four hours have passed before the President-elect assumes the office of President.

Discharge of functions in Parliament **96.**-(1) Ministers and Deputy Ministers shall have no right to attend parliamentary sessions, except:

- (a) where a motion requiring clarification from a Minister concerned has been moved in Parliament; or
- (b) where the Government or a Minister intends to proffer clarification relating to any motion in Parliament.

(2) For the purposes of Subarticle (2), a Minister who is allowed to attend a Parliamentary session may address the Assembly.

(3) The Government of the United Republic, under the authority of the President, shall make decisions over Government policies in general, and Ministers shall in general be answerable to the National Assembly regarding the execution of the policies and functions of the Government of the United Republic.

(4) Every Minister shall attend the meetings of a Parliamentary Committee whenever he is required to explain or clarify any matter relating to the discharge of his functions.

(5) Subject to the other provisions of this Constitution, Ministers shall give explanations or information which he has to give in Parliament in accordance with the laws of the land.

(b) The Attorney General of the Government of the United Republic

The
Attorney
General
of the
United
Republic

97.-(1) There shall be the Attorney General of the Government of the United Republic who, in the subsequent articles of this Constitution, shall simply be referred to as the “Attorney General” who shall be appointed by the President and confirmed by the National Assembly.

(2) A person who is qualified to be the Attorney General shall be:

(a) a citizen of the United Republic by birth;

(b) a holder of a degree from a university recognized by an accreditation authority of the United Republic;

(c) a person who is competent in legal matters and who is qualified to be an advocate in court;

(d) a senior servant in the public service or in his own business;

(e) he has possessed such qualifications for not less than fifteen years; and

(f) his behaviour is not suspect in the eyes of the public.

(3) The Attorney General shall be the principal adviser to the President of the United Republic on legal matters, and for that matter, shall be responsible for advising the Government of the United Republic on matters of law and for discharging any other functions pertaining to law or connected with law which are referred to or assigned to him by the President.

(4) The Attorney General shall discharge other duties or functions which shall be entrusted to him by this Constitution or any other law.

(5) In the discharge of his functions, the Attorney General shall have the right to appear and be heard in all Courts of the United Republic and the Courts of the Partners of the Union.

(c) Chief Secretary and Permanent Secretaries

Chief Secretary **98.**-(1) There shall be a Chief Secretary who shall be appointed by the President from amongst senior Government officers and shall be confirmed by the National Assembly.

(2) The Chief Secretary shall be a Secretary to the Cabinet, a Chairman of the meetings of the Special Committee of Permanent Secretaries and the Principal of Public Service.

(3) As the Principal of Public Service, the Chief Secretary shall have the powers to give directives from time to time concerning matters of public service.

(4) In his capacity as Secretary to the Cabinet, the Chief Secretary shall be the Executive Officer in the office of the Cabinet and shall discharge the following functions, in compliance with the general or specific directions issued to him by the President, that is to say:

(a) to work out a programme for Cabinet meetings and prepare activities for the Cabinet;

(b) to record minutes and maintain a record of Cabinet meetings;

(c) to notify and explain the decisions of the Cabinet to every person or public institution concerned with any such decision; and

(d) to discharge any other duties and functions as shall be directed by the President.

Permanent Secretaries **99.**-(1) There shall be Permanent Secretaries who shall be appointed by the President from amongst senior Government Officers in the public service as shall be nominated by the Secretariat for Public Service.

(2) Every Permanent Secretary shall be a leader and Executive Officer of a Government Ministry to which he has been appointed by the President and shall hold the office of Permanent Secretary and discharge his functions as shall be prescribed by the laws of the land.

(3) The President may, by suggestions from the Secretariat for Public Service, appoint a senior officer in the Public Service to a Deputy Permanent Secretary.

(4) Every Permanent Secretary shall be a final adviser of the Minister on all matters concerning the discharge of the functions and shall advise the Cabinet during the

meetings and the Committee which shall be convened by the Secretary to the Cabinet.

(5) The Chief Secretary, a Permanent Secretary or a Deputy Permanent Secretary shall not assume the functions of his office until he has taken and subscribed the oath of allegiance before the President and any other oaths connected with his functions.

(d) The Functions of the Cabinet

Special Committee of Permanent Secretaries Secretariat for the Cabinet
100. There shall be a Special Committee of Permanent Secretaries which shall be led by the Chief Secretary who shall be responsible for analyzing and advising the of Cabinet on various matters before they are presented and decided upon by the Cabinet and shall discharge other functions as issued to it by the Cabinet.

101.-(1) There shall be a Secretariat for the Cabinet which shall serve the Cabinet, for the Special Committee of Permanent Secretaries and discharge other functions as shall be assigned to it by the Cabinet.

(2) The Assembly may enact legislation concerning the procedure for the discharge of Government functions.

CHAPTER EIGHT

COORDINATION OF THE RELATIONS OF PARTNERS OF THE UNION

Commission for Government Relations and Procedure
102.-(1) There shall be a Commission responsible for supervising the procedure for relations between the Government of the Republic and the Government of the Partners of the Union and managing and coordinating relations between the Governments of the Partners of the Union, which is simply known as the “Commission for Government Relations and Procedure.”

(2) The Commission for Government Relations and Procedure shall consist of the following members:

- (a) the Vice-President of the United Republic who shall be its Chairman;
- (b) the President of Mainland Tanzania;
- (c) the President of Zanzibar;

- (d) Resident Ministers; and
- (e) Minister of Foreign Affairs and International Relations of the United Republic.

Objectives of the Commission

103. The Commission for Government Relations and Procedure shall have the following objectives:

- (a) to put in place good and sustainable procedures for consultation and Commission cooperation between the Government of the United Republic and the Governments of the Partners of the Union;
- (b) to promote and facilitate coordination and cooperation between the Partners of the Union concerning non-union matters so that they can provide services to the citizens at the same level.
- (c) to create enabling environment for the Government of the United Republic and the Government of the Partners of the Union to discuss how to execute union matters and non-union matters in the interest and wellbeing of all citizens; and
- (d) to create an enabling environment for the settlement of conflicts between the Government of the United Republic and the Governments of the Partners of the Union.

Responsibilities of the Commission

104.-(1) The Commission for Government Relations and Procedure shall have a special responsibility of ensuring coordination and cooperation in fulfilling the provisions of this Constitution, policies, laws, plans and strategies between the Government of the of the United Republic and the Governments of the Partners of the Union and shall also be a special organ responsible for:

- (a) consultation and cooperation between:
 - (i) The Government of the United Republic and the Governments of the Partners of the Union; and
 - (ii) The Governments of the Partners of the Union on their own in addressing non-union matters.

- (b) supervising, coordinating and ensuring that there is proportionality in the policies and laws of the Governments of the Partners of the Union relating to non-union matters;
 - (c) consultation and cooperation between the Government of the United Republic and international organizations on behalf of the United Republic;
 - (d) supervising and promoting matters of interest to the Nation;
 - (e) reconciliation and settlement of conflicts between:
 - (i) the Government of the United Republic and the Governments of the Partners of the Union; and
 - (ii) the Governments of the Partners of the Union on non-union matters.
- (2) For the purposes of Subarticle (1)(e), where any party to the conflict is not satisfied with the decision of the Commission for Government Relations and Procedure may appeal to the Supreme Court and the decision of that court shall be final.
- (3) The National Assembly may enact legislation for:
- (a) supervising the relations and procedure between the Governments of the Partners of the Union and the Government of the United Republic; and
 - (b) specifying the procedure for settling conflicts in accordance with this Article.

CHAPTER NINE THE LEGISLATURE OF THE UNITED REPUBLIC

PART I PARLIAMENT

Parliament
of the
United
Republic

- 105.**-(1) There shall be Parliament of the United Republic.
- (2) The Members of Parliament shall be as follows:
- (a) the Members of Parliament who have been elected to represent their constituencies; and
 - (b) Five Members of Parliament who shall be appointed by the President from amongst persons who qualify to represent the disabled in compliance with proportionality for the Partners of the Union.
- (3) For the purposes of Subarticle (2)(a), every region in Mainland Tanzania and every district in Zanzibar shall be a constituency;

(4) In every Constituency, there shall be two parliamentary seats, one for a male candidate and another for a female candidate.

(5) Both Members of Parliament from a certain Constituency shall be elected through an election by the electorate pursuant to the provisions of this Constitution and a law which specifies electoral procedures.

Life of
Parliament

106.-(1) Subject to the provisions of this Constitution, the life of each Parliament shall be five years.

(2) For the purposes of Subarticle (1), the expression “life of Parliament” means the whole period commencing from the date the new Parliament was first summoned after General Elections and ending on the date of dissolution of that Parliament for the purpose of enabling the holding of another ordinary general election.

Authority
of Parliament

107.-(1) Parliament is the principal organ of the United Republic with authority, on behalf of the people, to supervise the Government of the United Republic and all its organs in the discharge of all their functions in accordance with this Constitution.

(2) In the discharge of its functions, Parliament shall have the following responsibilities:

(a) to discuss and give advice on all matters of interest to the Nation and the Tanzanian people;

(b) to ask any question to any Minister concerning public affairs in the United Republic which are within his authority;

(c) to deliberate upon and authorise budgets for Ministries, institutions and Governmental organizations;

(d) to deliberate the performance of each Ministry during the annual Budget sessions of the National Assembly.

(e) to deliberate upon and authorise any long or short plan which is intended to be implement by the Government in the United Republic;

(f) to enact laws where implementation requires legislation;

(g) to deliberate and ratify all treaties and agreements to which the United Republic is a party and the provisions of which require ratification; and

(h) to deliberate and ratify all agreements concerning resources and natural resources which are under the oversight of the Government of the United Republic.

(3) Parliament shall supervise the Government by assessing the performance of the President, the Vice-President, Ministers and executive officers in the public service.

Limitations
on the
discharge of
functions
of Parliament

108.-(1) In the exercise of the authority of supervising the Government in accordance with this Constitution, the responsibility of Parliament shall be to advise the Government, and where Parliament is not satisfied with the Government’s steps in implementing the advice, then Parliament shall have the right to hold the Government accountable in accordance with the authority vested in it by this Constitution.

(2) For the purposes of subarticle (1), Parliament shall not take any action which traditionally is the responsibility of the Government, except that Parliament shall give advice regarding any matter connected to a Minister concerned.

Legislative power of Parliament	<p>109.-(1) Legislative power over all matters of the United Republic shall be vested in Parliament.</p> <p>(2) Legislative power in Mainland Tanzania and Zanzibar over all non-union matters shall be vested in the Parliament of Mainland Tanzania and the House of Representatives for Zanzibar.</p> <p>(3) Where any law enacted by Parliament concerning any matter which is under the authority of the Parliament of Mainland Tanzania or the House of Representatives..., that law shall be null and void.</p> <p>(4) Where any law enacted by the Parliament of Mainland Tanzania or the House of Representatives over any matter which is under the authority of the Parliament of the United Republic..., that law shall be null and void.</p> <p>(5) Without prejudice to the application of the Constitution of Mainland Tanzania and the Constitution of Zanzibar, the National Assembly shall have power in the United Republic over matters relating to the United Republic, and where any other law contravenes the provisions contained in this Constitution, then that other law, to the extent that it contravenes this Constitution, shall be void.</p>
Procedure enacting laws	<p>110.-(1) Parliament shall use its authority to enact laws, to debate and pass a Bill for of Law which shall be signed by the President.</p> <p>(2) Without prejudice to the provisions of subarticle (3), a Bill of Law may be written by the Government, a Parliamentary Committee or a group of Members of Parliament.</p> <p>(3) At the time of preparing a bill concerning any union matter, the Government of the United Republic shall ensure that it involves the people so as to obtain their opinions and suggestions on that bill.</p> <p>(4) Parliament shall enact Standing Orders which shall specify the procedure for:</p> <p>(a) tabling, debating and passing a Bill of Law; and</p> <p>(b) proper application of the provisions of subarticle (3).</p>
Procedure for amending the and some laws	<p>111.-(1) Subject to the provisions of Article 110, Parliament may enact legislation to amend any provisions of this Constitution in compliance with the rules that a Bill of Law for amending any provisions of this Constitution is supported by not less than two-thirds of the votes of all the Members of Parliament from Constitution both parts of the United Republic.</p> <p>(2) For the purposes of interpretation of subarticle (1), to amend the provisions of this Constitution or the provisions of a law means as well amending or correcting or repealing such provisions or making other provisions instead of changing the application of such provisions.</p>
Procedure for amending	<p>112. Parliament may not amend the Constitution for the purposes of:</p> <p>(a) increasing or reducing any union matters; and</p> <p>(b) the existence of the United Republic, until such amendments have been</p>

provisions supported by the people of the Partners of the Union through a Referendum which shall be conducted and supervised by the Independent Electoral Commission of the United Republic pursuant to a law enacted by the National Assembly.

Procedure for enacting legislation concerning financial matters

113.-(1) Parliament shall not deal with any matter among the matters contained in this Article, except if the President has proposed that that matter should be dealt with by Parliament and that proposition must have been submitted to Parliament and the Cabinet.

(2) Matters relevant to this Article include the following:

(a) a Bill to enact a law providing for any of the following:

(i) to levy a tax or to alter taxation otherwise than by reduction; and

(ii) the imposition of any charge upon the Consolidated Fund or any other public fund or the alteration of any such charge otherwise than by reduction.

(b) to direct that payment or expenditure be a charge upon the Consolidated Fund or any other Government accounts but in the knowledge that such accounts were not intended for such payment or expenditure, or to direct that payment or expenditure from such accounts be increased;

(c) to cancel or write off any debt payable to the Government of the United Republic; or

(b) a motion or any amendment of a motion for the purpose of any of the matters referred to in paragraph (a) of this subarticle.

Authority of the Head of State a Bill of Law

114.-(1) A Bill of Law which has been approved by the National Assembly shall be assented to by the President to confirm its acceptance by the President.

(2) A Bill of Law which has been submitted to the President for certification shall be signed by the President within a period of not more than thirty days from the over date the Bill was submitted and received by the Secretary to the Cabinet.

(3) After a Bill is presented to the President for his assent, the President may either assent to the Bill or withhold his assent, and in the event that the President withholds his assent to a Bill, he shall return it to the National Assembly together with a statement of his reasons for withholding his assent to the Bill.

(4) After a Bill is returned to the National Assembly pursuant to the provisions of this Article, it shall not be presented again to the President for his assent before the expiration of six months since it was so returned.

(5) If at the last stage in the National Assembly before it is again presented to the President, it is supported by the votes of not less than two-thirds of all the Members of Parliament, then that Bill may be submitted much earlier to the President.

(6) If a Bill is returned to the National Assembly the President, and it is then supported in the National Assembly by not less than two-thirds of all Members of Parliament as provided in subarticle (3) and it is presented a second time to the President for assent within six months of its being so returned, then the President shall be obliged to assent to the Bill within sixty days of its being presented to him, and if sixty days pass since the Bill was presented to the President a second time, it shall be regarded that it has been accepted by the President and shall be a law.

Approval of Government proposals

115.-(1) If the National Assembly is not satisfied with budget proposals presented to Parliament by the Government, Parliament may return the proposal with particular recommendations and the weaknesses noticed.
(2) The Government shall be obliged to work on the recommendations provided by Parliament as much as possible and then table the proposal a second time, including explanations on the incorporation of the recommendations of Parliament and if Parliament rejects the proposal a second time, then it shall be regarded to have been passed.

PART II MEMBERS OF PARLIAMENT

(a) Election of Members of Parliament

Election of Members Parliament

116.-(1) After the five years of Parliament have expired, there shall be election of Members of Parliament in the Constituencies as shall be announced by the the Independent Electoral Commission subject to the law enacted by Parliament.
(2) There shall be a parliamentary election in a constituency if: a parliamentary seat has become vacant by reason other than expiration of the life of Parliament.
(3) If the date on which the life of Parliament expires has been announced or is known, there shall not be a by-election within fourteen months before that date.
(4) If a Member of the National Assembly who, having stood at his election as an elected member with the support of or as a supporter of a political party has lost qualifications for being so by reason other than the expiration of the life Parliament, the Independent Electoral Commission of the United Republic, in accordance with a law which shall be enacted by Parliament, shall appoint and declare a new Member of Parliament from the list presented to it by the political party concerned subject to subarticle (5).
(5) A list of the nominees which has been presented to the Independent Electoral Commission of the United Republic during a General Election is the one which shall be used by the Independent Electoral Commission of the United Republic after consultation with a political party, for the purposes of filling the vacancy at any time of the life of Parliament.

Qualifications to be elected Member of Parliament

117.-(1) Without prejudice to the provisions of this Article, any person shall be qualified to be elected or appointed as a Member of Parliament if he:
(a) is a citizen of the United Republic who has attained the age of twenty five years at the time of contesting a parliamentary seat;
(b) can read and write in Kiswahili and English and his level of education is not lower than Form Four;
(c) is a member of and a candidate proposed by a political party;
(d) is honest, respects human rights and does not despise or discriminate against people on the basis of tribe, religion, gender or their status in the society; and

(e) Within a period of five years preceding the date of a general election such a person has not been convicted of an offence involving evasion to pay any tax payable to the Government.

(2) A person shall not be qualified to be elected or appointed as a Member of Parliament if:

(a) such a person has been a Member of Parliament for three periods;

(b) if he has been judged to be of unsound mind;

(c) such a person has been convicted by any court in the United Republic and sentenced to death or to a term in jail exceeding six months for any offence, however styled, involving dishonesty;

(d) such a person has been convicted by any court in the United Republic and sentenced to a term in jail for an offence involving dishonesty or breaking the laws concerning Public Leaders' Ethics;

(e) such a person has an interest in any Government contract of any kind in respect of which special restrictions are prescribed by an Act of Parliament and he has contravened such restrictions;

(f) such a person holds a senior office in the service of the Government of the United Republic; or

(g) in accordance with a law enacted by Parliament dealing with offences concerning election of any kind such a person has been disqualified from registering as a voter or from voting in a Parliamentary election.

(3) Parliament may enact a law making provisions disqualifying a person from being elected a Member of Parliament representing a constituency if such a person holds an office whose functions involve the conduct of, or supervision over, the election of Members of Parliament or registration of voters for election of Members of Parliament.

(4) In paragraph (e) of subarticle (2) of this Article "Government contract" means any contractual agreement in which one of the parties is the Government of the United Republic, or the Revolutionary Government of Zanzibar or Mainland Tanzania or any department of that Government or any officer of the Government who has taken part in it on behalf of the Government.

(5) Persons holding the following offices in the Public Service shall not be qualified to be elected Members of Parliament:

(a) the President and the Vice-President;

(b) the President of Mainland Tanzania and the President of Zanzibar and their Vice-Presidents;

(c) the Speaker of the National Assembly;

(d) a Minister and a Deputy Minister;

(e) the Attorney General and the Deputy Attorney General;

(f) the Secretary to the Cabinet and Permanent Secretaries;

(g) officers and public servants of the defence and security organs;

(h) a person who has been employed by state security organs as a soldier;

(i) a Permanent Secretary and a Deputy Permanent Secretary in a Ministry;

(j) the Chief Justice, a Justice or Magistrate, Government Advocate, and a Lawyer in the Government of the United Republic or the Partner Government;

- (k) the Controller and Auditor-General;
 - (l) a Member of the Independent Electoral Commission; and
 - (m) any person who has been employed, appointed or elected in the public service.
- (6) For the purposes of giving an opportunity to appeal to any person:
- (a) who has been formally certified to be of unsound mind;
 - (b) convicted and sentenced to death, imprisoned or sent to a trade school; and
 - (c) who has been convicted of any of the offences specified under the law in terms of subarticle (2), the authority of the land may prescribe legal conditions providing that the judgment being appealed against by that person shall have no effect for the purposes of the provisions of subarticle (2) until the expiration of the period specified in such legislation.

Tenure of office of Government officers

118. If a person holding a position in the public service specified by an Act of Parliament decides:

- (a) to contest any political post specified under this Constitution; or
- (b) to contest a leadership position in any political party,

that person shall be regarded to have ceased to be a public servant from the date he was nominated to be a candidate for a political post or leadership post in a political party.

Procedure for election of Members of Parliament

119.-(1) Members of Parliament who are representing constituencies shall be elected by the voters in accordance with the provisions to be specified by a law to be enacted by Parliament pursuant to this Constitution, which imposes conditions on the election of the Members of Parliament.

(2) Parliamentary candidates shall be required to submit their names to the Independent Electoral Commission of the United Republic pursuant to the procedure prescribed by a law which has been enacted by Parliament.

Oath of Members of Parliament

120. Every Member of Parliament shall be required to take and subscribe before the National Assembly the oath of allegiance before commencing to take part in the business of the National Assembly, save that he may take part in the election of Speaker before taking that oath.

Terms of office of Members of Parliament

121. All Members of Parliament shall hold office in accordance with this Constitution, and shall be paid a salary, remuneration and other allowances in accordance with a law enacted by Parliament.

122.-(1) A Member of Parliament shall cease to be a Member of Parliament and shall vacate his seat in the National Assembly upon the occurrence of any of the following matters:

- (a) where anything happens which, had he not been a Member of Parliament, would have disqualified him from election, or would make him lose the qualifications for election, or would disqualify him from election or appointment in accordance with the provisions of this Constitution;

- (b) where a Member of Parliament fails to attend three consecutive meetings of the National Assembly without the permission of the Speaker;
 - (c) where it is established that he has contravened the provisions of the law concerning Public Leaders' Ethics;
 - (d) where he fails to discharge the functions of Parliament for six consecutive months due to being of unsound mind or physical infirmity or for being detained;
 - (e) in case he fails to submit a declaration about his qualifications to be elected a Member of Parliament or fails to submit a formal declaration of property in accordance with the provisions of this Constitution within the period prescribed for that purpose by the laws of the land;
 - (f) in case he resigns; or
 - (g) in the case of a Member of Parliament, he is required to removed from office in accordance with the provisions of this Constitution.
- (2) A Member of Parliament may appeal, in accordance with the laws of the land, against a certification confirming that he is of unsound mind or against a prison sentence or against him being convicted of any of the offences mentioned in subarticle (1).

Account-
ability
of
Members
of
Parliament

123.-(1) A Member of Parliament shall discharge his functions in accordance with the provisions of this Constitution, and all the time shall be answerable to the electorate and the political party to which he belongs if he was nominated by a political party.

(2) A Member of Parliament who has been nominated by a political party shall not cease to be a Member of Parliament in case he is expelled from the party.

Right of
the electorate
to remove
a Member of
Parliament
from
office

124.-(1) Without prejudice to the provisions of Article 123 of this Constitution, the electorate shall have the right to remove a Member of Parliament from office, to remove upon the occurrence of any of the following:

- (a) he supports policies which are in conflict with the interest of the electorate or the Nation;
- (b) he fails to present or defend arguments arising from people's concerns;
- (c) he stops living in or lives outside his Constituency for more than six months without any good reasons;
- (d) he fails to attend three consecutive meetings of the National Assembly without the permission of the speaker;
- (e) he is employed or carries out other activities, instead of his responsibility of meeting with the electorate;
- (f) he runs businesses, owns companies or has stakes in companies which have contracts or relations with Government institutions, which causes a conflict of interest;
- (g) he is convicted of an offence concerning corruption or any other criminal offence;
- (h) he has done something that is contrary to ethics or is dishonest; or
- (i) any other matters which shall be specified by an Act of Parliament.

Decision

125.-(1) Every matter which requires a decision on-

on a matter concerning a Member of Parliament (a) whether a Parliamentary election was credible or not; or (b) whether a Member of Parliament has ceased to be a Member of Parliament and there is a vacancy in Parliament or not, shall be filed and heard at the Supreme Court.

(2) Parliament may enact a law imposing conditions on the following matters:

(a) persons who are qualified to file suit at the Supreme Court for the purpose of getting a judgment on any matter subject to this Article.

(b) reasons and times of filing suit of that kind, procedures for filing suit and the provisions which are to be complied with for every case of that type; and

(c) to specify the authority of the Supreme Court over that kind of case and to specify the procedure for hearing that case.

Formal declaration by Members of Parliament concerning leaders' (1) Every Member of Parliament, before the expiration of thirty days from the date he assumed office shall present to the Commission for Leadership and Accountability Ethics two copies of a special declaration that he is not disqualified to be a Member of Parliament in accordance with the provisions of this Constituent.

(2) The special declaration which has been mentioned in subarticle (1) shall be ethics written in a special form which shall be specified by the laws of the land.

Declaration of property by Members of Parliament (1) Every Member of Parliament shall be required before the expiration of thirty days since taking oath as a Member of Parliament to submit to the Clerk of the National Assembly two copies of a formal declaration that he has not lost the qualifications for election in terms of the provisions of this Constitution.

(2) The formal declaration which is required to be submitted to the Secretary shall be made on a special form prescribed in accordance with a law enacted by Parliament.

(2) The Clerk shall transmit to the Commission for Leadership and Accountability Ethics a copy of every formal declaration submitted to him in accordance with the provisions of this Constitution.

PART III LEADERSHIP IN PARLIAMENT

(a) Speaker and Deputy Speaker

Speaker and his functions (1) There shall be a Speaker of the National Assembly who shall be elected by the Members of Parliament from amongst persons who are Members of Parliament and shall be the Leader of the National Assembly in all other institutions and meetings.

(2) A Minister, a Deputy Minister or a person holding any other office prescribed by a law enacted by Parliament for the purposes of this Article shall not be elected Speaker.

(3) Any person elected Speaker shall be required, before the expiration of fifteen days of his election, to submit to the Commission for Leadership and Accountability Ethics a formal declaration that he has not lost the qualifications for election in terms

of the provisions of this Constitution; the declaration shall be made in a special form prescribed in accordance with a law enacted by Parliament.

(4) The Speaker shall be required to submit to the President two copies of a formal declaration regarding his property and that of his spouse as the case may be.

Cessation
of Speaker's
functions

129.-(1) The Speaker shall cease to be Speaker and shall vacate his office upon the occurrence of any of the following:

(a) where that person was been elected a Members of Parliament;

(b) if anything happens which, had he not been Speaker, would disqualify such a person from election, or make him lose the qualifications for being elected Speaker;

(c) if that person is removed from the office of Speaker by a resolution of the National Assembly supported by not less than two-thirds of all Members of Parliament;

(d) if that person fails to submit to the President a formal declaration in accordance with the provisions of Constitution;

(e) if that person is convicted of the offence of perjury contrary to the provisions of the Penal Code concerning any formal declaration submitted in accordance with the provisions of this Constitution;

(f) if that person fails to submit to the President a statement regarding his property in accordance with this Constitution before the expiration of the period stipulated for that purpose by a law enacted by Parliament; or

(h) if it is proved that that person has contravened the provisions of the law concerning Public Leaders' Ethics.

(2) No business, other than the election of the Speaker, shall be conducted in the National Assembly while the office of Speaker is vacant.

Deputy
Speaker

130.-(1) There shall be a Deputy Speaker of the National Assembly who shall be elected by Members from amongst Members of Parliament.

(2) A Minister, a Deputy Minister or a person holding any other office prescribed by a law enacted by Parliament for the purpose of this Article shall not be elected Deputy Speaker.

(3) Members of Parliament shall elect a Deputy Speaker on the following occasions-

(a) when the National Assembly meets for the first time following General Elections, or as soon as possible thereafter; and

(b) at the first sitting of the National Assembly after the office of Deputy Speaker falls vacant for any reason not connected with the dissolution of Parliament or as soon as possible after that sitting.

(4) The Deputy Speaker shall cease to be Deputy Speaker and shall vacate the office of Deputy Speaker upon the occurrence of any of the following events:

(a) if that person is elected to be a Member of Parliament;

(b) if anything happens which, had he not been Deputy Speaker, would have disqualified him from election or would make him lose the qualifications for being elected Deputy Speaker; or

(c) if that person is removed from the office of Deputy Speaker by a resolution of the National Assembly.

Procedure
for electing
Speaker
and
Deputy
Speaker

131.-(1) There shall be an election for electing the Speaker at the first sitting of the National Assembly, and at any first sitting after the office of Speaker falls vacant.

(2) There shall be held an election for electing the Deputy Speaker at any time at the first sitting of the National Assembly, and immediately after the occurrence of a vacancy in the office of Deputy Speaker.

(3) The election of a Speaker as well as that of Deputy Speaker shall be by secret ballot and shall be conducted in accordance with the procedure prescribed by the Standing Orders of the National Assembly.

(4) The Speaker and the Deputy Speaker shall be elected on condition that if the Speaker comes from one part of the Partners of the Union the Deputy Speaker shall come from the other part of the Partners of the Union.

(5) Save where he resigns, the Speaker and the Deputy Speaker shall be in office for not more than two terms of five years each.

(6) Any person who shall be elected to be Speaker or Deputy Speaker shall be required to, before starting to perform his functions, take and subscribe the oath of allegiance.

Qualifications
of Speaker
Deputy
Speaker

132. A person shall qualify to be elected Speaker or Deputy Speaker if he:

(a) holds a degree from a university recognized by the accreditation authority of and the land;

(b) has qualifications for being elected a Member of Parliament;

(c) at the time of contesting, he shall have attained the age of forty years; and

(d) is not or has never been a high-ranking leader of a political party in the period of five years prior to the date he is seeking to be elected Speaker or Deputy Speaker.

(b) Office of Parliament

Clerk
of the
National
Assembly

133.-(1) There shall be a Clerk of the National Assembly who shall be appointed by the President from amongst persons holding offices in the Union Government.

(2) The Clerk of the National Assembly shall be the Chief Executive in the office of the National Assembly, and shall be responsible for the efficient discharge of the business of Parliament in conformity with the provisions of this Constitution and of the relevant law.

The Secretariat
of the

134.-(1) There shall be a Secretariat of the National Assembly which shall consist of servants from both parts of the United Republic, depending on the National grades in the public service based on the requirements of the functions of the Assembly National Assembly as shall be determined by the Secretariat for Public Service.

(2) The Secretariat of the National Assembly, under the leadership of the Clerk of the National Assembly, shall discharge all duties and functions prescribed or as may be

necessary for the purpose of ensuring the efficient discharge by the National Assembly and Members of Parliament of the functions of Parliament.

PART IV PROCEDURE IN THE NATIONAL ASSEMBLY

- Standing of the National Assembly **135.**-(1) Subject to the provisions of this Constitution, the National Assembly Orders shall make Standing Orders for the purpose of prescribing procedure for the conduct of its business.
(2) The Standing Orders made pursuant to this Article may prescribe procedure for supervision of the discharge of the functions of the Secretariat of the National Assembly and also the discharge of the business of the National Assembly in the National Assembly and those of its committees and subcommittees.
- President address and Parliament **136.**-(1) The President shall address the National Assembly at its first meeting may address and inaugurate it.
(2) Subject to the provisions of subarticle (1), the President may, at any time, address the National Assembly or send to the House a communication which shall be read by a Minister.
(3) The President may address the National Assembly at every final sitting of a year to explain the discharge of various functions in accordance with this Constitution.
- Meetings of the National Assembly **137.**-(1) The National Assembly shall hold its meetings at the place where it is customary to hold such meetings or at any other place in the United Republic as the President may designate in that behalf.
(2) The first meeting of the National Assembly in the life of Parliament shall commence on the day for which the National Assembly is summoned to meet, and every subsequent meeting shall commence on such date as may be specified by the National Assembly or on any day that shall be appointed in accordance with the Standing Orders of the National Assembly.
(3) The President may at any time summon a meeting of the National Assembly pursuant to the provisions of this Constitution.
- Presiding over sittings of the National Assembly **138.** Every sitting of the National Assembly shall be presided over by any one of the following persons-
(a) the Speaker;
(b) if the Speaker is absent, the Deputy Speaker; or
(c) if both the Speaker and the Deputy Speaker are absent, any Member of Parliament who has been elected by the Members of Parliament for that purpose.
- Quorum the sittings **139.**-(1) The quorum at every sitting of the National Assembly shall be half of all at the Members of Parliament, except where it is provided otherwise in this Constitution.

of the National Assembly (2) Every question proposed for decision in the National Assembly shall be determined by a majority of the votes of the Members of Parliament present and voting.
(3) The Speaker, Deputy Speaker or any other person presiding over the sitting of the National Assembly shall not have a deliberative vote but shall have a casting vote in the event of an equality of votes.

Parliamentary committees **140.**-(1) The National Assembly may establish various Standing Committees as it may deem appropriate for the better discharge of its functions.
(2) The Standing Orders of the National Assembly may provide for the composition and functions of the Standing Committees established pursuant to the provisions of this Article.

PART V POWERS AND PRIVILEGES OF PARLIAMENT

Freedom to debate in the National Assembly **141.**-(1) In the National Assembly, the Members of Parliament shall be free to give their opinions and suggestions and to debate, and that freedom shall not be breached or questioned by any organ in the United Republic or in any court or elsewhere outside the House.
(2) Subject to this Constitution or to the provisions of any other relevant law, a Member of Parliament shall have freedom of opinion and in any way shall not be allowed to lie, anger or hurt a Member of Parliament or any person in the society.
(3) Without prejudice to Subarticle (2), any Member of Parliament shall not be prosecuted and no civil proceedings may be instituted against him in a court in relation to anything which he has said or done in the National Assembly.
(4) Parliament may enact a law making provisions to enable the court and the law to preserve and enforce freedom of opinion, debate and procedure of business in the National Assembly.

Limitations concerning freedom to debate in National Assembly **142.**-(1) Without prejudice to the provisions of this Constitution which protect and preserve freedom of opinion and debate in the National Assembly, it is hereby prohibited for any Member of Parliament to lie in Parliament, and for that reason, a Member of Parliament is obliged to be truthful, the and not to say things which are untrue or about which he does not have enough information.
(2) When a Member of Parliament is speaking in Parliament he shall not be considered or interpreted to be telling lies if he refers to news which has been broadcast by media or published in newspapers or any other document whose source is known or shall be provided by that Member of Parliament.

CHAPTER TEN THE JUDICIARY OF THE UNITED REPUBLIC

PART I DISPENSATION OF JUSTICE AND INDEPENDENCE OF THE JUDICIARY

Establishment of the Judiciary of Tanzania **143.**-(1) There shall be the Judiciary of the United Republic of Tanzania.
(2) Subject to this Constitution, the Judiciary of the United Republic shall get powers from the people and shall exercise its powers through the Supreme Court of and the Court of Appeal.
(3) The Judiciary of the United Republic shall be the authority with a final decision in dispensation of justice in the United Republic.

Principles concerning dispensation of justice **144.** (1) In delivering decisions on civil and criminal matters in accordance with the laws, the Judiciary of the United Republic shall observe the following principles, that is to say:
(a) impartiality to all without due regard to one's social, political, cultural or economic status;
(b) not to delay dispensation of justice without reasonable ground;
(c) to award reasonable compensation to victims of wrong doings committed by other persons, and in accordance with the relevant law enacted by Parliament for that purpose;
(d) to promote and enhance dispute resolution among persons involved in the disputes; and
(e) to dispense justice without being tied up with the technicalities of provisions which may obstruct dispensation of justice.

Independence of the Judiciary **145.**-(1) In exercising the powers of dispensing justice, the Judiciary of the United of Republic of Tanzania shall be guided by the provisions of this Constitution and shall not be interfered with by being controlled, influenced or directed by a person or any organ.
(2) The office of Justice of the Supreme Court and that of Justice of the Court of Appeal shall not be abolished while there is a person holding that office.
(3) Salaries and other allowances of the Justices of the Judiciary of the United Republic shall be a charge on the Consolidated Fund of the Government.
(4) The salaries and allowances payable to a Justice of the Supreme Court or the Court of Appeal shall not be varied in a manner which is less beneficial to him.
(5) The pension payable to the Justice of the Supreme Court or the Court of Appeal shall not be varied in a manner which is less beneficial to him while he is still living.
(6) Any court servant shall not be prosecuted for anything which he has done or not done in good faith in the dispensation of justice in accordance with the law.

PART II STRUCTURE OF THE JUDICIARY

(a) Courts of the United Republic

The structure of the Judiciary

146.-(1) Without prejudice to any of the aforementioned provisions, the Structure of the Judiciary in the United Republic shall be as follows:

- (a) the Supreme Court; and
- (b) the Court of Appeal.

(2) The High Court of Mainland Tanzania and the High Court of Zanzibar shall have equal jurisdiction at the initial stages of hearing civil and criminal cases concerning the United Republic in the areas of authority of the Partners of the Union.

(b) The Supreme Court of the United Republic

The Supreme Court **147.**-(1) There shall be a Supreme Court of the United Republic which shall simply be known as the “Supreme Court” which shall consist of:

- (a) a Chief Justice who shall be the President of the Supreme Court;
- (b) a Deputy Chief Justice who shall be the Vice-President of the Supreme Court;
- and
- (c) other justices who are not less than seven.

(2) Appointment of the Justices of the Supreme Court shall be done in accordance with the qualifications to be specified in this Constitution and representation of the two parts of the United Republic.

Quorum at the sittings of Supreme Court **148.**-(1) The quorum at every sitting of the Supreme Court shall be five Justices of the Supreme Court.

(2) The quorum of Justices at the sitting for hearing matters specified in Article the 149(a), (b), (c) and (e) shall observe representation of the two parts of the United Republic.

(3) In every appeal, a matter which requires the decision by the Supreme Court shall be decided on the basis of the majority opinion of the Justices of the Supreme Court hearing the appeal.

Jurisdiction of the Supreme Court **149.**-(1) The Supreme Court shall be the highest level for hearing appeals in the United Republic and shall:

- (a) the first and only organ to hear and decide petitions contesting the results of the Presidential Election of the United Republic;
- (b) to hear and decide matters brought to it by the Government of the United Republic or the Governments of the Partners of the Union regarding the interpretation of this Constitution;
- (c) to hear and decide conflicts between the Partners of the Union or between the Partners of the Union and the Government of the United Republic;
- (d) to hear and decide appeals from the Court of Appeal;
- (e) to provide suggestions for the purpose of advising the Government of the United Republic or the Partner Governments; and
- (f) to hear and decide any matter which shall be brought to it in accordance with this Constitution or any other law which bestows jurisdiction upon that court.

(2) The Court of the United Republic and the Court of the Partners of the Union, except the Supreme Court, shall be bound by the decisions of the Supreme Court.

(3) The Supreme Court shall prepare principles for the discharge of its functions.

(4) Parliament may enact legislation which shall impose other conditions on the running of the Supreme Court.

Authority of the Justices of the Supreme Court

150.-(1) Any Justice of the Supreme Court shall have authority to hear and decide any matter in the Court of Appeal or at any other court which is under the authority of the Partners of the Union.

(2) Without prejudice to Subarticle (1), if a Justice of the Supreme Court, before his appointment, was a Justice of the Court of Appeal or of any Court of the Partners of the Union, then such a Justice may continue to discharge his duties at his former Court until he completes to prepare and deliver judgment or until he completes any other functions concerning a case which he began hearing before his appointment as a Justice of the Supreme Court.

(3) Subject to the provisions of Subarticle (2), it shall be lawful for a Justice of the Supreme Court to deliver judgment or any other decision concerned by exercising and declaring the position he held before his appointment as a Justice of the Supreme Court, and in case that judgment or that decision is rejected through an appeal which has been lodged at the Supreme Court, then that Justice shall have no jurisdiction of hearing that appeal.

(c) Appointment of the Justices of the Supreme Court

Appointment of the Chief Justice

151.-(1) The Chief Justice shall be appointed by the President from amongst the names submitted to the President by the Judicial Service Commission and before he is sworn in his name shall be submitted to the National Assembly for confirmation by the Assembly.

(2) The Chief Justice shall be the Principal of the Judiciary in the United Republic.

(3) A person shall qualify to be appointed Chief Justice if he has attained the age of forty five years or more, and is upstanding, honest, has good conduct and:

(a) holds a degree in law from a university recognized by the accreditation authority in Tanzania;

(b) he has worked as a magistrate, a judge, a public servant or an academician with qualifications to work as an advocate in chambers;

(c) possesses qualifications for being registered as an advocate, and he has possessed such qualifications for not less than fifteen years.

Appointment of the Deputy Chief Justice

152.-(1) The Deputy Chief Justice shall be appointed by the President from amongst the names submitted to the President by the Judicial Commission and before he is sworn in his name shall be submitted to the National Assembly for confirmation by the Assembly.

(2) A person shall be appointed as Deputy Chief Justice if he possesses the qualifications which have been specified under Article 151 and in compliance with the requirement that if the Chief Justice comes from one part of the United Republic then the Deputy Chief Justice shall come from the other part of the United Republic.

(3) The Deputy Chief Justice shall be the Principal Assistant of the Chief Justice in the discharge of his functions as the Principal of the Judiciary.

Appointment of Justices of the Supreme Court **153.**-(1) The Justices of the Supreme Court shall be appointed by the President from amongst the names submitted to him by the Judicial Service Commission and shall be sworn in by the President.

(2) A person shall qualify to be appointed Justice of the Supreme Court if he is Court upstanding, honest, has good conduct and:

(a) holds a degree in law from a university recognized by the accreditation authority in Tanzania;

(b) he has worked as a magistrate, a judge, a public servant or an academician with qualifications to work as an advocate in chambers;

(c) possesses qualifications for being registered as an advocate, and he has possessed such qualifications for not less than ten years.

(3) Subject to the provisions of subarticle (2), where the President is satisfied that although:

(a) a person holding one of the qualifications specified under subarticle (2) has not held that qualification for a period of not less than ten years; and

(b) that person has the ability, knowledge and in every respect is suitable for appointment as Justice of the Supreme Court.

(c) there are reasons which make such a person deserve to be so appointed, then the President may dispense with the requirement that such person shall have held the special qualifications for a period of not less than ten years, and may after consultation with the Judicial Service Commission, appoint that person Justice of the Supreme Court.

Oaths the Justices of the Supreme Court **154.** The Chief Justice, the Deputy Chief Justice or a Justice of the Supreme Court shall assume the functions of his office soon after being sworn in by the President and taking and subscribing the oath of allegiance or any other oath connected with of the discharge of his duties as may be prescribed in accordance with the law enacted by Parliament.

Tenure of the Chief Justice, Deputy Chief Justice and other Justices **155.**-(1) The Chief Justice and the Deputy Chief Justice of the Supreme Court shall vacate office upon attaining the age of seventy, save where:

(a) he resigns;

(b) the office of Chief Justice or Deputy Chief Justice falls vacant on grounds of death or illness; or

(c) he is removed from office in accordance with this Constitution.

(2) The provisions of Subarticle (1) shall be applied to the Deputy Chief Justice and a Justice of the Supreme Court.

(3) Without prejudice to Subarticles (1) and (2), the Chief Justice, the Deputy Chief Justice and a Justice of the Supreme Court who has attained the age of his retirement shall continue to discharge his duties until he completes to prepare and deliver judgment or until he completes any other functions concerning a case which he began hearing before his retirement.

Provisions relating to procedure of succession to office in the Supreme Court

156.-(1) Whenever:

- (a) the office of Chief Justice is vacant;
- (b) the Chief Justice is absent from the United Republic; or
- (c) the Chief Justice, for any reason, fails to discharge his duties, the Deputy Chief Justice shall perform the duties of the Chief Justice until another Chief Justice is appointed or until the Chief Justice who was absent or was unable to discharge his duties assumes duty.

(2) In the event that an office of Justice of the Supreme Court is vacant or that any Justice of the Supreme Court is appointed as a Deputy Chief Justice or if the Justice of the Supreme Court is for any reason unable to exercise his office, or if the Chief Justice advises the President that the state of business then obtaining in the Supreme Court requires the appointment of an Acting Justice of the Supreme Court, then the President may appoint an Acting Justice of the Supreme Court from amongst persons holding qualifications for appointment as Justice of the Supreme Court as may be recommended by the Judicial Service Commission.

(3) A person appointed Acting Justice of the Supreme Court shall continue to hold the office of Acting Justice of the Supreme Court for any period of time specified at the time of his appointment.

(4) Without prejudice to the provisions of Subarticle (2), a person appointed Acting Justice of the Supreme Court shall continue to work as Acting Justice of Supreme Court for as long as may be necessary to enable him to prepare and deliver judgment or to do any other thing in relation to appeals or any other proceedings which were commenced before the expiration of such period, or the revocation of his appointment.

(5) For the avoidance of doubt, an Acting Justice of the Supreme Court shall have full power of a Justice of the Supreme Court and shall discharge all duties of Justices of the Supreme Court, and that the quorum of Justice of Supreme Court mentioned in Article 147 shall not be invalid on grounds only that one or more than one Justice of the Supreme Court at any sitting is an Acting Justice of the Supreme Court.

Procedure to of Justices of the Supreme Court

157.-(1) The procedure for dealing with discipline of Justices of the Supreme Court for offences other than those specified under subarticle (2) shall be as discipline prescribed under the law to be enacted by Parliament.

(2) A Justice of the Supreme Court may be removed from office Supreme Court for reason of inability to perform the functions of his office either due to illness or for any other reason, or for misbehaviour which breaches the ethics connected to the functions of a Justice or Public Leaders' Ethics Act, and shall not be removed from office except in accordance with the provisions of Subarticle (4).

(3) In the event that the President thinks that the removal of a Justice from office needs to be investigated, then under such circumstances, the procedure shall be as follows:

- (a) The President may, after consultation with the Chief Justice, suspend that Justice;
- (b) The President shall form a Commission which shall consist of a Chairman and not less two other Members; and at least half of such members shall be Justices of the

Supreme Court or the Court of Appeal from any country which is a member of the Commonwealth; and

(c) The Commission shall inquire into the entire matter and submit a report to the President concerning description of that matter and shall advise the President if the Justice concerned should be removed from office in accordance with the provisions of this Article for being unable to discharge his duties on grounds of illness or any other reasons, or for misbehaviour.

(4) If the Commission which has been formed, pursuant to the provisions of subarticle (3), advises the President that the Justice whose behaviour has been inquired into by that Commission should be removed from office for being unable to perform his functions on grounds of illness or any other reasons or misbehavior, then the President shall remove that Justice and his tenure shall have ceased accordingly.

(5) If the matter concerning the removal of a Justice from office has been submitted to the Commission for inquiry in accordance with the provisions of subarticle (3), the President may suspend the Justice concerned and may at any time revoke that decision, and under any circumstances the decision to remove that justice shall be void, provided that the Commission advises the President not to remove the Justice from office.

(6) The provisions of this Article shall not apply to the persons appointed to act as Justices.

(d) The Court of Appeal of the United Republic

Court of Appeal of the United Republic simply be known as the “Court Appeal” and which shall consist of:

158.-(1) There shall be a Court Appeal of the United Republic, which shall Appeal

(a) a Chairman of the Court of Appeal; and

(b) other Justices who are not less than seventeen.

(2) The Justices of Appeal shall be appointed on the basis of the qualifications which shall be specified in this Constitution and proportional representation from the two parts of the United Republic.

(3) The laws to be enacted in accordance with the Constitution of the Partners of the Union shall prescribe conditions concerning the procedure for submitting an appeal to the Court of Appeal, the time and reasons for lodging an appeal.

Quorum of the meetings of the Court of Appeal shall be the Justices at of Appeal who are not less than seven.

159.-(1) The quorum at every meeting of the Court of Appeal shall be the Justices at of Appeal who are not less than seven.

(2) In every appeal, a matter which requires the decision by the Court of Appeal of shall be decided on the basis of the majority opinion of the Justices hearing the appeal.

Jurisdiction of the Court of Appeal shall have:

160.-(1) The Court of Appeal shall have:

(a) jurisdiction to hear and decide every appeal which is presented before the Court of Appeal resulting from any judgment or decision of the High Court or Appeal any lower level Court which is bestowed with special authority by the Supreme

Court;

(b) the jurisdiction to go through the judgments or decisions by the Supreme Court; and

(c) other jurisdictions as shall be prescribed by legislation to be enacted by Parliament.

(2) The Court of Appeal shall work out Principles for the discharge of its functions.

(3) The National Assembly may enact a law which shall impose other conditions concerning the running of the Court of Appeal.

Jurisdiction of Justices of Appeal

161.-(1) No Justice of Appeal shall have jurisdiction to hear any matter in any other Court other than the Court of Appeal.

(2) Without prejudice to the provisions of Subarticle (1), where a Justice of Appeal, before his appointment, was a Justice of the High Court of the Partners of the Union or a Justice of any other Court of the Partners of the Union, that Justice of Appeal may continue to discharge his functions at his former Court until he completes preparation and delivery of a decision or until he completes any other business in connection with matters which he had started hearing before his appointment as a Justice of Appeal.

(3) Subject to the provisions of Subarticle (1), it shall be lawful for a Justice of Appeal to deliver judgment or any other decisions concerned in the exercise of the jurisdiction he had before he was appointed Justice of Appeal; provided that where ultimately that judgment or decision is challenged by way of appeal to the Court of Appeal, then in such circumstances that Justice of Appeal shall not have jurisdiction to hear that appeal.

(e) Appointment of Justices of Appeal

Appointment of the Chairman of the of the Court of appeal

162.-(1) The Chairman of the Court of Appeal shall be appointed by the President from among the names of the persons which shall be nominated by the Judicial Service Commission.

(2) The Chairman of the Court of Appeal shall be the Principal and assistant of Court the Chief Justice in the discharge of the functions in the Court of Appeal, and in Appeal that capacity, the Chairman of the Court of Appeal shall discharge the duties and functions which shall be assigned to him from time to time by the Chief Justice.

(3) A person may be appointed Chairman of the Court of Appeal if he has attained the age of forty five or more and who is upstanding, has good behaviour and is honest; and (a) holds a degree in law from a university recognized by the accreditation authority in Tanzania;

(b) he has worked as a magistrate, a judge, a public servant or an academician with qualifications to work as an advocate in chambers;

(c) possesses qualifications for being registered as an advocate, and he has possessed such qualifications for not less than ten years.

(4) Subject to the provisions of Subarticle (2), where the President is satisfied that although:

- (a) a person holding one of the qualifications specified under Subarticle (2) has not held that qualification for a period of not less than ten years;
- (b) that person has the ability, knowledge and in every respect is suitable for appointment as Justice of Appeal; and
- (c) there are reasons which make such a person deserve to be so appointed, then the President may dispense with the requirement that such person shall have held the special qualifications for a period of not less than ten years, and may after consultation with the Judicial Service Commission, appoint that person Justice of Appeal.

Appointment Justices of Appeal

163.-(1) The Justices of Appeal shall be appointed by the President from amongst of the persons who have been nominated the Judicial Services Commission.

(2) A person may be appointed Chairman of the Court of Appeal if he has attained the age of forty five or more and who is upstanding, has good behaviour and is honest; and

- (a) holds a degree in law from a university recognized by the accreditation authority in Tanzania;
- (b) he has worked as a magistrate, a judge, a public servant or an academician with qualifications to work as an advocate in chambers;
- (c) possesses qualifications for being registered as an advocate, and he has possessed such qualifications for not less than ten years.

Oath of Justices of Appeal

164.-(1) The Chairman of the Court of Appeal, or a Justice of Appeal shall assume office soon after being sworn in by the President and taking and subscribing the oath of allegiance and any other oath connected with the discharge of duties as may be prescribed by an Act of Parliament.

Tenure of office of the Chairman and other Justices of Appeal

165.-(1) The Chairman of the Court of Appeal shall start to discharge the functions of Chairman of the Court of Appeal until he attains the age of seventy years, except if:

- (a) he resigns;
- (b) his office falls vacant on grounds of illness or death; or
- (c) he is removed from the office of Chairman of the Court of Appeal in accordance with this Constitution.

(2) The Deputy Chairman of the Court of Appeal or a Justice of Appeal shall discharge his duties until he attains the age of seventy years, except if:

- (a) he resigns;

- (b) his office falls vacant on grounds of illness or death; or
- (c) he is removed from the office of Chairman of the Court of Appeal in accordance with this Constitution.

(3) Subject to the provisions of Subarticles (1) and (2), it shall be lawful for a Justice of Appeal who has attained the age of seventy years to discharge his functions after attaining that age until he completes the preparation and delivery of the decision or until he completes any other business in connection with matters which he had started hearing before his retirement.

Procedures for acting in the Court of Appeal

166.-(1) If it happens that:-

- (a) the office of the Chairperson of the Court of Appeal is vacant;
- (b) The Chairperson of the Court of Appeal is outside the United Republic;
- (c) The Chairperson of the Court of Appeal for whatever reason fails to discharge his duties,

The Chief Justice may appoint any Judge of the Court of Appeal to discharge the duties of the Chairperson of the Court of Appeal until another proper Chairperson of the Court of Appeal has been appointed or until the Chairperson of the Court of Appeal who has been away from Tanzania or has been unable to discharge his duties due to illness has come back to office.

(2) If it happens that the chair of the Court of Appeal is vacant or if any Judge of Appeal has been appointed to discharge the duties of the Chairperson of the Court of Appeal or if a Judge of the Court of Appeal fails to discharge his duties for whatever reason, the Chief Justice shall advise the President that the successful implementation of the Court of Appeal needs that an Acting Judge of the Court of Appeal be appointed.

(3) If the President finds merit in the advice given to him by the Chief Justice, he/she shall appoint an Acting Judge of the Court of Appeal from among individuals who have the qualities of being appointed Judges of the Court of Appeal.

(4) A person who shall be appointed to the position of Acting Judge of Appeal shall work as Acting Judge of Appeal for all the time that shall be announced during his appointment, or if the length of time is not mentioned, then it shall be until the appointment is done by the President.

(5) Notwithstanding the provisions of Subarticle (4), a person who has been appointed Acting Judge of Appeal shall continue to work as Acting Judge of the Court of Appeal he has

finished preparing and issuing a ruling or until he has finished any responsibility related to an appeal or other kinds of hearings which he had started to hear before the expiration of his/her term to office or his appointment is cancelled.

(6) For the purpose of ridding doubt Acting Judge of the Court of Appeal shall have full powers of the Judge of the Court of Appeal, and shall carry out all responsibilities of a Judge of the Court of Appeal and that the number of Judges mentioned in Article 158 shall not be affected because the complete list of Judges of the Court of Appeal in any one sitting shall include Acting Judges of the Court of Appeal.

Procedures relating to the discipline of Justices of the Court of Appeal

167.-(1) The procedure for handling the discipline of Judges of the Court of Appeal, for reasons different from those identified within the scope of Subarticle (2) shall be as explained in the Law that shall be enacted by the Parliament.

(2) A Justice of the Court of Appeal may be removed from office of a Justice of Appeal for reason of failing to perform the functions of his office due to:

- (i) inability of the mind or body;
- (b) violation of Code of Ethics for Justice of the Court of Appeal enacted lawfully;
- (c) not having the ability to perform the duties of the position of a Judge; or
- (d) misbehaviour or unacceptable manners such that shall affect the Code of Ethics for Leaders in the Public Service.

(3) The Chairperson of the Court of Appeal, Vice Chairperson of the Court of Appeal and a Justice of Appeal may be dismissed from the position of the authority of a Justice by following the same procedures as those for dismissing from office the Chief Justice, Deputy Chief Justice and a Justice of a High Court as has been explained.

(f) Oversight of Judicial Services

Court Registrar

168.-(1) There shall be a Court Registrar who shall be appointed by the President following recommendation by Judicial Service Commission and after approval by the Parliament.

(2) A person shall not be appointed to the position of Court Registrar except if:

- (a) he has a law degree from a university established according to the Laws of the land;

- (b) he has worked as a magistrate, in the public service or an academic having the qualification of working as an State attorney, or is a private advocate.
- (c) he has the qualification of being registered as an advocate; and
- (d) is morally upright and of good character, and has had such attributes consistently for a period of not less than ten years.

Duties of Court Registrar

169.-(1) Court Registrar shall have the following duties:

- (a) to oversee the execution of judicial responsibilities
- (b) to coordinate judicial affairs
- (c) other responsibilities as shall be assigned to him by the Chief Justice

(2) In implementing his responsibilities, the Court Registrar shall be accountable to the Judicial Service Commission.

Chief Executive of the Judicial Office

170.-(1) There shall be a Chief Executive of the Judicial Office who shall be appointed by the President from among Public Servants following recommendation by Judicial Service Commission and after approval by the Parliament.

(2) A person shall not be appointed to the position of the Chief Executive of the Judicial Office except if the person:

- (a) is a senior public servant;
- (b) is a professional and is experienced in administration and financial matters; and
- (c) is morally upright and of good character

Responsibilities of the Chief Executive of the Judicial Office

171.-(1) The Chief Executive of the Judicial Office shall have the following responsibilities:

- (a) Secretary to the Judiciary Service Commission;
- (b) Accounting Officer of the Judiciary;
- (c) general overseer of the Judiciary Fund;
- (d) general overseer of administration of the Judiciary; and
- (e) shall carry out other responsibilities as shall be assigned by the Chief Justice

(2) In implementing his responsibilities, the Chief Executive of the Judicial Office shall be answerable to the Judiciary Service Commission.

PART THREE

JUDICIARY SERVICE COMMISSION AND JUDICIARY FUND

(a) Judiciary Service Commission

The Judiciary Service Commission

172.-(1) There shall be a Judiciary Service Commission that shall comprise nine members who shall be appointed by the President as follows:

- (a) the Chief Justice who shall be the Chairman;
- (b) the Attorney General
- (c) a Justice of the High Court
- (d) a Justice of Appeal
- (e) a Representative of the Tanzania Mainland Law Society
- (f) a Representative of the Zanzibar Law Society
- (g) two Deans of Faculties of Law, one from Mainland Tanzania and one from Zanzibar who shall be recommended by the Chief Justice
- (h) the Chief Judiciary Executive who shall be the Secretary to the Judiciary Service Commission

(2) The Commission may invite any other who has specific expertise to participate in any meeting of the Commission, except that such a person shall not have a polling right.

(3) The Commission shall put in place procedures for its sittings.

Responsibilities of the Judiciary Commission

173.-(1) The Judiciary Service Commission shall be obligated to perpetuate and facilitate freedom and accountability of the Judiciary and successful dispensation of rights with success and transparency.

(2) The Judiciary Service Commission shall have the responsibilities of:

- (a) recommending to the President names of people who are suitable to be

Judges of the High Court and the Court of Appeal;

- (b) reviewing and proposing conditions of service for Judges and other servants in the Judiciary, including issues of their discipline and benefits;
- (c) appointing registrars and employing other Judiciary staff, receiving complaints against them and taking disciplinary measures against them, including removing them from service according to the Law that shall be enacted by the Parliament;
- (d) preparing and implementing educational programmes for Judges and other Judiciary staff;
- (e) proposing to the Government improvements on the Judiciary in order to enhance efficiency in the dispensation of justice;
- (f) giving opportunities for dialogue about the implementation of the duties of the Judiciary of the United Republic so as to assist the Chief Justice in implementing his responsibilities in order to enhance efficiency and success in the dispensation of justice; and
- (g) implementing any responsibility that it shall be assigned according to this Constitution or other laws.

(3) In implementing its duties, the Commission shall observe:

- (a) transparency in the process of appointing Judges and employment of other staff of the Judiciary of the United Republic;
- (b) representation of the two Parties to the Union;
- (c) representation in terms of gender.

(4) In implementing its duties, the Commission may delegate its powers to different committee which shall be set up according to a Law that shall be enacted by the Parliament.

(5) The Parliament may enact a law which shall make provisions relating to implementation of the functions by the Commission.

Membership in political parties

174. It shall be prohibited for a Justice of the High Court, Justice of the Court of Appeal or a Court Registrar of any grade to be a member of any political party, save only that he shall have the right to vote to elect leaders in representative organs.

(b) The Judiciary Fund

The Judiciary Fund

175.-(1) There shall be a fund that shall be called the Judiciary Fund of the United Republic which shall be under the custodianship of the Chief Executive of the Judicial Office.

(2) The Judiciary Fund of the United Republic shall be used for funding administrative costs and the running of the activities of the Judiciary of the United Republic and other important activities in the execution of the responsibilities of Judiciary.

(3) The Government shall ensure that in every Governmental financial yearly budget, sets aside an amount of money that suffices that shall be deposited into the Judiciary Fund of the United Republic.

(4) The Parliament shall enact a law that shall make provisions relating to the running of the Judiciary Fund of the United Republic.

**CHAPTER ELEVEN
SERVICE IN THE UNITED REPUBLIC**

Main Principles of Public Service

176.-(1) Public service in the United Republic shall be based on the following values and principles:

- (a) public service is a trust from the people and so a servant is obligated to serve the people with diligence, commitment and humility;
- (b) to cherish and raise high standards of professional ethics;
- (c) to encourage people to use resources wisely and productively;
- (d) to dispense service to the public justly, equally and without favouritism;
- (e) to encourage people to participate in the preparation of different national policies;
- (f) to respond to the demands and needs of people quickly and at appropriate times;
- (g) to volunteer in the implementation of national policies and plans;
- (h) accountability of leaders for wrongs committed under their leadership;

- (i) to encourage the policy of transparency in giving truthful information to the public and at appropriate times; and
- (j) to make sure that people shall be appointed to different position on the basis of educational qualifications, profession, knowledge, skills and their experience in the respective field.

(2) The Values and Principle of Public Service mentioned in this Article shall be observed and used in appointments for filling leadership posts in:

- (a) authority in all state Organs
- (b) all Government institutions and departments;
- (c) all Government corporations

(3) The Parliament shall enact laws stipulating the terms for implementing the service principles mentioned under Subarticle (1).

Terms and conditions of service in the United Republic

177. Without affecting the terms and conditions in this Constitution, public service and leadership in the United Republic shall observe the principle that the offer of employment and appointment of leaders shall be based on proportionality of Parties to the Union, with regard to professionalism and level of education in the respective field.

Public Service Commission

178.-(1) There shall be a Public Service Commission that shall comprise Chairman and other six members who shall be appointed by the President and approved by the Parliament.

(2) In appointing members of the Public Service Commission, the President shall abide by the Procedures for Public Service stipulated in this Constitution.

(3) There shall be a Secretary to the Public Service Commission who shall be the Chief Executive and the implementer of the daily responsibilities of the Commission.

(4) The Secretary to the Public Service Commission shall be appointed by the President after being endorsed by the Parliament from among senior servants in the Government of the United Republic.

The powers of the Public Service Commission

179.-(1) The Public Service Commission shall be a supreme organ in the Public Service with authority to oversee and coordinate all matters regarding Public Service.

(2) Without affecting the conditions of Subarticle (1), the responsibilities of the Public Service Commission shall be:

(a) to advise the President about the appointment of leaders to different position according to this Constitution;

(b) to provide different guidelines and oversee employment process in public service by following relevant criteria;

(c) without affecting the conditions set in this Constitution, appointing people to serve or hold office temporarily in a public service department, to authorize appointment and controlling discipline and removing servants serving in or holding those offices

(d) to oversee and encourage implementation of the values and principles of public service in all sectors of public service;

(e) to attend to appeals submitted by public servants against decisions by different disciplinary authorities in public service;

(f) to execute any other responsibilities as shall be identified by a law that shall be enacted by the Parliament regarding public service and other laws of the land;

(g) to design and revise salaries and allowances of public servants, including top Government leaders, political leaders, servants in the Judiciary service, Parliament, and the Executive; and

(h) to harmonize salaries and allowances of all Government, Parliamentary, Judiciary officers, and officers in parastatals together with officers in the security and defense forces.

CHAPTER TWELVE ELECTIONS IN REPRESENTATIVE ORGANS AND POLITICAL PARTIES

PART ONE PEOPLE'S REPRESENTATION

Participation in representative organs

180.-(1) Every citizen of the United Republic of Tanzania having attained the age of eighteen years or more with sound sanity has the right to vote and the right to be registered for election or opinion poll.

(2) For the purpose of Subarticle (1), an electoral authority shall observe the following principle:

- (a) citizens use political right according to this Constitution;
- (b) people with physical disabilities are given the right of representation;
- (c) the right of everyone to cast one ballot following the want for representation and equality in voting; and
- (d) election which is free and which –
 - (i) is a secret ballot
 - (ii) does not use force, threats, enticement, or bribe;
 - (iii) has had no pronouncements which signal tribalism, provincialism, religious bias, scorn and sexual defamation or stigma against people with disabilities or minority groups in the society;
 - (iv) is run and overseen by an independent organ; and
 - (v) is run without favouritism or leaning towards any side, which is alert and which reflects accountability of the administrators

(3) In order to the conditions in Subarticles (1) and (2), national authority shall put in place a legal procedure which shall enable:

- (a) authorities overseeing elections to announce constituencies for the purpose of parliamentary election;
- (b) nomination of candidates;
- (c) continuous registration of voters;
- (d) to run and supervise elections and opinion polls;
- (e) to have in place a system of registering citizens of the United Republic of Tanzania residing outside the country to enable them to vote during elections or opinion polls; and
- (f) procedures for making elections to be simple, transparent, and which consider the needs of people with special needs.

(4) For the purpose of Subarticle (2), for the intent of promoting democracy, to protect the Constitution and making sure that there is free election, every voter has the right to file a

suit in a Court of law to obstruct election results, serve for results of the election of the President, which he believes have breached or violated conditions of this Constitutions.

PART TWO

INDEPENDENT ELECTORAL COMMISSION

(a) Structure of the Independent Electoral Commission and Political Parties

Establishment of the Independent Electoral Commission

181.-(1) there shall be an Independent Electoral Commission of the United Republic for the purpose of overseeing and coordinating electoral processes and issues concerning political parties, and which shall also be called “Independent Electoral Commission”.

(2) The Independent Electoral Commission shall comprise a Chairman, Deputy Chairman and other seven members who shall be appointed by the President after being recommended by the Nomination Committee.

(3) The Chairman, the Deputy Chairman and members of the Independent Electoral Commission shall be in power immediately after being confirmed by the Parliament.

(4) The Chairman and the Deputy Chairman of the Electoral Commission shall have the following attributes:

(a) be a citizen by birth by at least one of his parents being a citizen of Tanzania by birth;

(b) be a person who has held the position of a Justice of the High Court or Supreme Court and has held that position for a period of not less than five years.

(c) be a person who is honest, diligent, and of character that is not doubted by the society.

(d) be a person who is not a leader, has not held any political post in any political party; and

(e) be a person who has at no time been found guilty of any criminal offence related to not being honest.

(5) A Member of the Independent Electoral Commission shall have the following attributes:

(a) be a citizen by birth by at least one of his parents being a citizen of Tanzania by birth.

(b) be a person who is honest, diligent, and of character that is not doubted by the society.

(c) be a person who is not a leader, has not held any political post in any political party;

(d) hold a university degree which has been accredited according to the laws of the land: and

(e) be a person who has at no time been found guilty of any criminal offence related to not being honest.

(6) For the purpose of this Article, the following persons shall not have the entitlement of Members of the Independent Electoral Commission:

(a) a Member of Parliament of the Parliament of the United Republic, a Member of Parliament of the Parliament of Mainland Tanzania, a Representative of the House of Representatives, a Councilor or *Sheha* in the Government of Mainland Tanzania or Zanzibar respectively;

(b) a person who is a public servant; or

(c) a person who is holding an administrative post in a non-governmental organisations within a period of five years before the nomination is done.

(7) The appointment of Members of the Independent Electoral Commission shall be based on proportionality of Parties to the Union

Appointments Committee

182.-(1) There shall be an Appointment Committee of the Chairman, Vice Chairman and Members of the Independent Electoral Commission which shall have the following composition:

(a) Chief Justice of the United Republic who shall be the Chairman;

(b) Speaker of the Parliament of the United Republic who shall be the Vice Chairman;

(c) Speaker of the Council of Representatives of Zanzibar;

- (d) Speaker of the Parliament of Mainland Tanzania;
- (e) Chief Justice of Mainland Tanzania;
- (f) Chief Justice of Zanzibar; and
- (g) Chairman of the Human Rights Commission.

(2) The Director of the Independent Electoral Commission shall be the Secretary to Appointments Committee.

(3) The Appointments Committee shall have the responsibility of receiving and reviewing the names of the people who have applied to be members of the Independent Electoral Commission in regard to procedures that shall be identified by a law that shall be enacted by the Parliament.

(4) Subject to the provisions of Subarticle (3), the Electoral Commission, immediately after sorting out the names of the applicants who have applied for the position of members of the Independent Electoral Commission, shall recommend to the President the names of the people who are suitable to be appointed members of the Independent Electoral Commission.

(5) The President shall appoint the Chairman, Deputy Chairman and Members of the Independent Electoral Commission from among the names submitted by the Appointments Committee, and he will submit those names to the Parliament for confirmation by the Parliament.

(6) The Parliament shall enact a Law that, among other things, shall put in place conditions about the oath to be taken by the Chairman, Deputy Chairman and other Members of the Independent Electoral Commission.

Cessation of tenure of the Independent Electoral Commission

183.-(1) A Member of the Commission shall be in power for the period of five years, and may be reappointed once for another period of five years.

(2) A person shall cease to be a member of the Commission if any of the following events occurs:

- (a) death;
- (b) resignation;
- (c) not being able to execute his responsibilities on health grounds;

- (d) being removed for violating Public Leaders Code Ethics;
- (e) being found guilty for a wrong whose punishment is imprisonment for a period exceeding seven days; or
- (f) losing the qualities of being appointed member

(2) For the purpose of good implementation of the responsibilities of the Commission, there shall be a code of ethics as shall be enumerated by a Law that shall be enacted by the Parliament.

(3) A Member of the Independent Electoral Commission who shall violate the Commission's Code of Ethics shall lose his attributes of going on being a member;

(4) Should a need for removing a Member of the Independent Electoral Committee for violating Principle of Leaders in the Public Service ensue, the President shall appoint a Committee that shall comprise:

- (a) Justice of the Court of Appeal who shall be the Chair;
- (b) The Commissioner of the Human Rights Commission;
- (c) A Member of the Commission of Ethics and Accountability; and
- (d) Advocates, one from Mainland Tanzania and one from Zanzibar, who shall be proposed by the Tanganyika Law Society and the Zanzibar Law Society, and that Committee shall inquire into the matter and then give recommendations to the President.

(5) If, after the inquiry, the Committee shall propose that the member remains, the issue of removing the member shall abate.

(6) The Committee shall put in place a procedure for the inquiry.

Responsibilities of the Independent Electoral Commission

184.-(1) The Independent Electoral Commission shall have the responsibilities of:

- (a) oversight and running of all activities related to the election of Members of Parliament and the President in the United Republic of Tanzania;
- (b) oversight and running of opinion poll;
- (c) oversight and coordination of voters' registration in the United Republic of Tanzania;
- (d) oversight and coordination of activities of political parties according to the conditions set in this Constitution and the laws of the land;

- (e) preparing and publishing annual reports of audited financial reports of political parties; and
- (f) oversight of subsidy funds to Political Parties.

(2) The Independent Electoral Commission of the United Republic shall also have the responsibility of educating voters during elections or opinion poll and coordinate supervising people, civil society organizations, institutions, communities and groups of people who shall do the educating.

(3) The Independent Electoral Commission also has the responsibility of making sure of the presence of:

- (a) freedom of the people to use electoral right and being elected through political parties or as independent candidate;
- (b) representation that observes gender;
- (c) representation of people with disabilities or special needs in the society;
- (d) observation of polling procedures one person one vote considering equal representation; and
- (e) freedom of fair election.

(4) The Independent Electoral Commission may execute its responsibilities without worrying that among members there is a vacant position of authority or that one Member is absent, but every decision to be made by the Commission must be seconded by a majority of all the Members of the Independent Electoral Commission.

(5) In implementing its responsibilities according to the conditions of this Constitution, the Independent Electoral Commission shall not be obligated to abide by orders or instructions by anybody or any Government department, or opinions of any political party.

(6) In implementing its powers according to this Constitution, the Independent Electoral Commission shall frequently consult with the Electoral Commission of Mainland Tanzania and the Electoral Commission of Zanzibar.

(7) It shall be prohibited for people who are concerned with elections to join any political party, except that each one of them shall have the right to vote to in choosing members of representative organs.

(8) For the purposes of Subarticle (8), the persons concerned with the conduct of elections are-

- (a) the Chairman of the Independent Electoral Commission;
- (b) the Vice-Chairman of the Independent Electoral Commission;
- (c) all members of the Independent Electoral Commission;
- (d) the Director of Elections and all other employees of the Independent Electoral Commission;
- (e) The Registrar of Political Parties; and
- (f) all supervisors of elections.

Electoral petitions

185.-(1) The Independent Electoral Commission shall address electoral complaints concerning nominations of candidates timely.

(2) Petitions contesting parliamentary elections shall be filed at the Referral Court once the Independent Electoral Commission declares the election results, and not after the time prescribed by the laws of the land.

(3) For the purposes of Subarticle (2), a petition contesting the declaration of a candidate as winner of a parliamentary election shall be heard by a Justice of the Court of Appeal.

(b) Political Parties

Political parties

186.-(1) The United Republic of Tanzania is a democratic state which adheres to multi-party democracy.

(2) Notwithstanding the provisions of Subarticle (1), it shall not be lawful for any political organ which, according to its Constitution-

- (a) aims at promoting or furthering the interests of-
 - (i) a faith or religious group;
 - (ii) any tribal group, place of origin, race or gender; and
 - (iii) only in a particular area within any party of the United Republic.
- (b) advocates for the break-up of the United Republic;
- (c) accepts or advocates for the use force or violent confrontations as means of attaining its political goals;
- (d) advocates or intends to conduct its political activities in only one part of the United Republic; or
- (e) does not permit periodic and democratic election of its leaders.

(3) Without contravening the laws of the land, it shall be unlawful for any person to be compelled to join any association or any political party to be refused registration solely on grounds of the ideology or philosophy of the party.

(4) Parliament may enact legislation which makes provisions for ensuring that political parties operate within the limits and adhere to the conditions set out in Subarticle (2) concerning the freedom and the right of the persons to associate and assemble.

(5) All matters concerning registration and the conduct of political parties in the country shall be dealt with in accordance with the provisions of the Constitution and an Act of Parliament which has been enacted for that purpose.

(c) The Director of Elections and the Registrar of Political Parties

Discharge of the Functions of the Independent Electoral Commission

187.-(1) For the better performance of its functions, the Independent Electoral Commission shall be divided into two main sections, that is, an elections section and a political parties section.

(2) For the purposes of Subarticle (1), there shall be:

- (a) a Director of Elections who shall supervise and perform the day-to-day functions of the Independent Electoral Commission relating to electoral issues, registration of voters and the conduct of opinion polls; and
- (b) a Registrar of Political Parties who shall be concerned with supervising and performing the functions of the Independent Electoral Commission relating to registration of political parties.

(3) The Director of Elections and the Registrar of Political Parties shall discharge their duties in accordance with the procedure prescribed by the laws of the United Republic concerning political parties and electoral issues.

(4) The Director of Elections and the Registrar of Political Parties shall discharge their duties with the assistance of a number of persons who are civil servants as necessary.

(5) Appointment of the Director of Elections and the Registrar of Political Parties shall be done by the President after their names have been approved by Parliament.

(6) In performing their functions, the Director of Elections and the Registrar of Political Parties shall be answerable to the Independent Electoral Commission.

**CHAPTER THIRTEEN
RESPONSIBLE INSTITUTIONS**

**PART I
THE COMMISSION FOR LEADERSHIP
AND ACCOUNTABILITY ETHICS**

Commission for Leadership and Accountability Ethics

188.-(1) There shall be a Commission for Ethics for Leadership and Accountability which shall consist of a Chairman and a Vice-Chairman and not more than seven other members.

(2) The Chairman and the Vice-Chairman of the Commission for Leadership and Accountability Ethics shall be appointed by the President after being nominated by the Public Service Commission.

(3) The Chairman and the Vice-Chairman shall not assume office until their appointment is confirmed by Parliament.

(4) The Chairman of the Commission shall have the following qualifications:

(a) a citizen of the United Republic;

(b) a holder of a university degree from a university recognized by the accreditation authority in the United Republic;

(c) a person who has worked as a civil servant for not less ten years;

(d) a person who is respectable, competent, ethical and whose conduct is not suspect.

(5) The qualifications of the Vice-Chairman shall be as stipulated under Subarticle (4).

Functions of the Commission

189.-(1) The functions of the Commission for Leadership and Accountability Ethics shall be to follow up and to inquire into the conduct of public leaders for the purpose of protecting and ensuring that the Leadership and Accountability Ethics and the Code of Conduct for Public Leaders are adhered to, protected and respected in the Public Service, Parliament, the Judiciary, and in all other institutions and public organizations.

(2) Without prejudice to all the provisions of Subarticle (1), the specific functions of the Commission shall be:

- (a) to uphold ethics and accountability in public service;
- (b) to inspect and follow up records of applicants for positions in public leadership;
- (c) to inquire into the conduct of a public servant or a public leader and to take action against a public servant or public leader where necessary, including taking to court public servants who have infringed the ethics and code of conduct;
- (d) to enforce the legislation concerning ethics and accountability of public servants which shall be enacted by Parliament;
- (e) to deal with matters concerning embezzlement of funds and public property;
- (f) to assess the conduct and behaviour of public leaders before they assume office;
- (g) to provide education about the ethics and code of conduct for public leaders to the public;
- (f) to assess its own decisions, or after receiving complaints from any person, about commission or omission by a leader or any public servant, or a Government agency, if the act that has been committed or omitted is contrary to the public ethics;
- (i) to order, after receiving complaints or when it deems appropriate, a leader or a public servant or Government agency or any public organ to carry out any act or anything as required by the law, or to stop, prevent or to rectify a servant's or leader's bad performance;
- (j) to issue an order for holding a public servant or leader accountable;
- (k) to order a leader or public servant, in accordance with the law, to provide documents on official use of funds or public property, or to provide information on embezzlement of public funds or property to the Commission for appropriate actions to be taken;
- (l) to ask for assistance or important information from any Government or private authority in discharging its duties, and to inspect, where necessary, important records and relevant documents;
- (m) by adhering to the law, to inform the public about the findings of an investigation which has been carried out, if the situation permits;

- (n) to inquire into anything or situation that breaches or causes the breach of ethics; and
- (o) to prepare regulations which impose restrictions on the procedure and use of authority or discharge of the functions and responsibilities of the Commission as prescribed by law.

Tenure of office of Members of the Commission

190. The Chairman, the Vice-Chairman and the Members of the Commission shall serve for two terms of three years each, given that appointment of the Members of the Commission shall be done in such manner that their terms in office shall begin or end at the same time.

Removal from office of Members of the Commission

191.-(1) The Chairman of the Commission or any other member of the Commission may be removed from office for:

- (a) being unable to discharge his duties because of illness, mental problems or poor state of health;
- (b) not adhering to the Code of Conduct for Public Servants;
- (c) not adhering to Public Leaders' Ethics;
- (d) being incompetent; or
- (e) misconduct.

(2) The Chairman or any other member of the Commission may be removed from office because of suggests of the Secretariat for Public Service or suggestions by any other person to the Secretariat for Public Service, provided that:

- (a) the suggestions are in writing; and
- (b) the issues which are being complained about are indicated.

(3) After receiving the requests, or if the Commission has expressed its own complaints, the Commission shall form a special tribunal which shall look into the complaints.

(4) Special Tribunal issues about:

- (a) the number of members;
- (b) members' qualifications; and
- (c) tenure of office, shall be decided by the Commission.

(5) After receiving the report by the Special Tribunal, the Commission shall submit the recommendations of the Special Tribunal to the President for decision.

Freedom of the Commission

192.-(1) The Commission shall be independent, and therefore shall not be interfered with by any person or any authority in discharging its duties.

(2) Parliament shall enact legislation which shall impose conditions on:

(a) procedure for the discharge of the functions of the Commission;

(b) preparation and submission of the Commission's reports;

(c) procedure for submission of the Commission's recommendations and decisions;

(d) members of the Commission; and

(e) all other important issues of the Commission.

Provision of instruments and resources

193. The Government shall ensure that the Commission for Leadership and Accountability Ethics is provided with funds, instruments and enough human resources as circumstances permit for the Commission to execute its duties and functions.

PART II

THE COMMISSION FOR HUMAN RIGHTS

Commission for Human Rights

194.-(1) There shall be a commission called a Commission for Human Rights which shall consist of a Chairman, a Vice-Chairman and not more than seven other members.

(2) The Chairman and the Vice-Chairman of the Commission for Human Rights shall be appointed by the President after being nominated by the Secretariat for Public Service.

(3) The Chairman and the Vice-Chairman shall assume office after being approved by Parliament.

(4) The qualifications of the Commission's Chairman shall be as follows:

(a) a citizen of the United Republic;

(b) a holder of a law degree;

(c) a person who has worked as a public servant for not less than ten years; and

(d) a person who is respectable, competent, honest, and whose conduct is not questionable in the eyes of the public.

(5) The qualifications of the Vice-Chairman shall be as stipulated in Subarticle (4).

Duties and Functions of the Commission

195. The duties and functions of the Commission for Human Rights shall be as follows:

- (a) to sensitise the public about preservation of human rights and duties to the public in accordance with the Constitution and the laws of the land;
- (b) to receive complaints in relation to violation of human rights in general;
- (c) to conduct inquiry on matters relating to infringement of human rights and violation of principles of good governance;
- (d) to conduct research, to impart or disseminate to the public education in respect of human rights and good governance;
- (e) if necessary, to institute proceedings in court in order to prevent violation of human rights or to restore a right that was caused by that infringement of human rights, or violation of principles of good governance;
- (f) inquire into the conduct of any person concerned and any institution concerned in relation to the ordinary performance of his duties or functions or abuse of the authority of his office;
- (g) to advise the Government and other public and private institutions in respect of human rights and good governance;
- (h) to take necessary action in order to promote and enhance conciliation and reconciliation among persons and various institutions appearing or being brought before the Commission.

Tenure of office of the Members of the Commission

196. The Chairman, the Vice-Chairman and the Members of the Commission shall serve for two terms of three years each, given that appointment of the Members of the Commission shall be done in such manner that their terms in office shall begin or end at the same time.

Removal from office of Members of the Commission

197.-(1) The Chairman of the Commission or any other member of the Commission may be removed from office for:

- (b) being unable to discharge his duties because of illness, mental problems or poor state of health;
- (c) not adhering to the Code of Conduct for Public Servants;

- (c) not adhering to Public Leaders' Ethics;
- (d) being incompetent; or
- (e) misconduct.

(2) The Chairman or any other member of the Commission may be removed from office because of the suggestions of the Secretariat for Public Service or suggestions by any other person to the Secretariat for Public Service, provided that:

- (a) the suggestions are in writing; and
- (b) issues which are being complained about are indicated.

(3) After receiving the suggestions, or if the Commission has expressed its own complaints, the Commission shall form a special tribunal which shall look into the complaints.

(4) Special Tribunal issues about:

- (a) the number of members;
- (b) members' qualifications; and
- (c) tenure of office shall be decided by the Commission.

(5) After receiving the report by the Special Tribunal, the Commission shall submit the recommendations of the Special Tribunal to the President for decision.

Independence of the Commission

198.-(1) The Commission shall be independent, and therefore shall not be interfered with by any person or any authority in discharging its duties.

(2) Parliament shall enact legislation which shall impose conditions on:

- (a) procedure for the discharge of the functions of the Commission;
- (b) preparation and submission of the Commission's reports;
- (c) procedure for submission of the Commission's recommendations and decisions;
- (d) members of the Commission; and
- (e) all other important issues of the Commission.

Provision of instruments and resources

199. The Government shall ensure that the Commission for Human Rights is provided with enough funds, instruments and human resources as circumstances permit for the Commission to execute its duties and functions.

PART III
THE CONTROLLER AND AUDITOR-GENERAL OF
THE UNITED REPUBLIC

Appointment of the Controller and Auditor-General

200.-(1) There shall be a Controller and Auditor-General of the United Republic who shall be appointed by the President of the United Republic after being nominated by the Secretariat for Public Service.

(2) The Controller and Auditor-General of the United Republic shall not assume office until he has been confirmed by the National Assembly of the United Republic.

Qualifications of the Controller and Auditor-General of the United Republic

201. The Controller and Auditor-General shall be appointed from among public servants with the qualifications below:

- (a) a holder of a graduate degree in accounts and must have been registered with a relevant authority;
- (b) a person who has worked as a public servant for more than fifteen years;
- (c) has a fifteen years' experience in auditing the accounts of the Government of the United Republic; and
- (d) a person who is respectable, competent, honest and who does not practise nepotism.

Functions and responsibilities of the Controller and Auditor- General of the Republic

202.-(1) The Controller and Auditor-General of the United Republic shall have responsibility over the following matters:

- (a) to ensure that the use of any moneys proposed to be paid out of the Consolidated Fund has been authorized and that the funds shall be paid out in accordance with the provisions of this Constitution, and where he is satisfied that those provisions shall be duly complied with, then he shall authorize payment of such moneys;
- (b) to ensure that all the moneys the payment of which has been authorized to be charged on the Consolidated Fund of the Government of the United Republic, or the moneys the use of which has been authorized by a law enacted by Parliament and which have been spent, have been applied to the purposes connected with the

use of such moneys and that such expenditure has been incurred in accordance with the authorization for such expenditure; and

- (c) at least once every year to audit and give an audit report in respect of the accounts of the Government of the United Republic, the accounts managed by all officers of the Government of the United Republic and the accounts of all courts of the United Republic and the accounts managed by the Clerk of the National Assembly.
- (d) to prepare an annual report and table it before the National Assembly for discussion and provision of recommendations.
- (2) The Controller and Auditor- General shall be independent in discharging the functions and responsibilities of the Controller and Auditor-General, and therefore he shall not be interfered with by any person or any authority.
- (3) The Controller and Auditor-General and every employee of the Government who is authorized by him shall have the right to examine books records, statements of accounts, reports and all other documents concerning any type of account referred to in Subarticle (2) of this Article.
- (4) The Controller and Auditor-General shall submit to the President every report he makes pursuant to the provisions of this Article.
- (5) Upon receipt of such report the President shall direct the persons concerned to submit that report before the first sitting of the National Assembly which shall be held after the President has received the report and it shall have to be submitted to such sitting before the expiration of seven days from the day the sitting of the National Assembly began. If the President does not take steps of submitting such report to the National Assembly, then the Controller and Auditor-General shall submit the report to the Speaker of the National Assembly (or the Deputy Speaker if the office of the Speaker is vacant then, or if for any reason the Speaker is unable to perform the functions of his office) who shall submit the report to the National Assembly.
- (6) The Controller and Auditor-General shall also have responsibility of discharging other duties and functions, and shall have other various powers as shall be

specified by the law concerning the accounts of the Government of the United Republic or the accounts of other public authorities or other bodies.

- (7) In the discharge of his functions in accordance with the provisions of Subarticles (1), (3), (4) and (5) of this Article, the Controller and Auditor-General shall not be obliged to comply with the order or direction of any other person or Government Department, but the provisions of this Subarticle shall not preclude a court from exercising jurisdiction to enquire into whether the Controller and Auditor-General has discharged his functions in accordance with the provisions of this Constitution or not.
- (8) The National Assembly may enact a law for controlling, among other things, use of the authority of the Controller and Auditor-General of the United Republic.

Tenure of office

203.-(1) The Controller and Auditor-General of the United Republic shall be in office for a term of seven consecutive years only.

(2) Without prejudice to the provisions of Subarticle (1), the Controller and Auditor-General of the United Republic may vacate office by submitting a thirty days' notice to the President.

Removal from office

204.-(1) The Controller and Auditor-General may be removed from office for:

- (a) being unable to discharge his duties because of illness, mental problems or poor state of health;
- (b) not adhering to the Code of Conduct for Public Servants;
- (c) not adhering to Public Leaders' Code of Ethics;
- (d) being incompetent; and
- (e) misconduct.

(2) The Controller and Auditor-General of the United Republic may be removed from office because of the suggestions of the Secretariat for Public Service or suggestions by any other person to the Secretariat for Public Service, provided that:

- (a) the suggestions are in writing; and
- (b) issues which are being complained about are indicated.

(3) After receiving the suggestions, or if the Commission has expressed its own complaints, the Commission shall form a special tribunal which shall look into the complaints.

(4) Special Tribunal issues about:

(a) the number of members;

(b) members' qualifications; and

(c) tenure of office, shall be decided by the Commission.

(5) After receiving the report by the Special Tribunal, the Commission shall submit the recommendations of the Special Tribunal to the President for decision.

Provision of Instruments and resources

205. The Government shall ensure that the Office of the Controller and Auditor-General of the United Republic is provided with enough funds, instruments and human resources to protect its independence in the discharge of its functions and responsibilities.

CHAPTER FOURTEEN PROVISIONS REGARDING THE FINANCES OF THE UNITED REPUBLIC

(h) The Consolidated Fund of the Government of the United Republic

Consolidated of Fund of the Government of the United Republic

206. The Government of the United Republic shall maintain an account to be known as "the Consolidated Fund of the United Republic, into which shall be paid the moneys from various sources, except:

(a) the money which has been specified by law that it is for special use or to be paid into another fund for special use; or

(b) the money which, according to the law, Government institutions have been authorised to collect to meet the expenditure of such institutions.

Conditions for withdrawal of expenditure of moneys from the Consolidated

207.-(1) Moneys shall not be paid out of the Consolidated Fund of the Government of the United Republic for expenditure save in accordance with the following terms:

- (a) such money should be for the purpose of expenditure Fund which has been authorized to be charged upon the Consolidated Fund of the Government of the United Republic by this Constitution or by any other law; and
- (b) such money is for expenditure which has been authorized either by Appropriation Act enacted by Parliament for that purpose or any other law enacted by Parliament.

(2) Pursuant to the provisions of Subarticle (1), moneys in the Consolidated Fund of the United Republic shall be paid out for expenditure unless and until such expenditure has been approved by the Controller and Auditor-General of the United Republic.

(3) Moneys in any special fund of the Government other than the Consolidated Fund of the United Republic shall not be paid out unless and until such expenditure has been authorized by law.

Procedure for authorization of Monies from the Consolidated Fund

208.-(1) The President shall give directives to persons concerned with preparation and submission to the Parliament in each Government financial year estimates of revenue and expenditure of the Government of the United Republic for the following financial year.

(2) After the National Assembly has approved the estimates of expenditure, apart from the expenditure charged on the Consolidated Fund by this Constitution or by any other law, a Bill to be known as an Appropriation Bill shall be introduced into the National Assembly for the purpose of authorizing the issue from the Consolidated Fund of the sums necessary to meet the expenditure for the various activities of the Government involved in those estimates.

- (3) Where in any financial year it is found that:
 - (a) the amount of money appropriated by the Appropriation Act for a certain purpose is insufficient;
 - (b) it has been necessary to incur expenditure in respect of an activity for which no amount has been appropriated under the Act;
 - (c) money has been expended for a certain purpose in excess of the amount appropriated for it by the Appropriation Act for that purpose;
 - (d) money has been expended for a purpose for which no amount was appropriated under the Act, there shall be presented before the National Assembly a supplementary estimate or, as the case may be, a statement of excess, and after the National Assembly has approved the supplementary estimate or the statement

of excess there shall be introduced into the National Assembly a supplementary Appropriation Bill for the purpose of authorizing the issue of funds from the Consolidated Fund of the government of the United Republic, and such moneys shall be used to meet the cost of the activities involved in the supplementary estimates or statement of excess.

Procedure for authorization of expenditure of appropriation

209.-(1) Where the financial year of the Government has begun and the Appropriation Act in relation to that year has not come into operation, then the President may authorize the issue of moneys from the Consolidated Fund of the Government of the United Republic for the Act purposes of meeting the expenses of essential business of the Government, and such moneys shall be expended until the expiration of four months from the beginning of the financial year, or until the Appropriation Act comes into operation, depending whichever occurs earlier.

(2) Parliament may enact a law providing for the authorization of expenditure of moneys from the Consolidated Fund of the Government of the United Republic in accordance with a procedure prescribed in Subarticle (1).

Contingencies Fund

210.-(1) There shall be a Contingencies Fund upon whose expenditure conditions shall be imposed by an Act of Parliament.

(2) The provisions in Subarticle (1) shall authorize the President or a Minister of Finance, where he is satisfied:

- (a) to apply money specifically appropriated for certain business to meet the costs of an urgent and unforeseen need from the Contingencies Fund; or
- (b) to apply money specifically appropriated for certain business to meet the costs of an urgent and unforeseen need as referred to in paragraph (a) of Subarticle (2).

(3) Where money has been borrowed from the Contingencies Fund, or money specifically appropriated for a certain purpose is applied to meet the costs of an urgent and unforeseen need, then there shall be presented before the National Assembly supplementary estimates, and after the National Assembly has approved the supplementary estimates, a supplementary Appropriation Bill which shall be introduced into the National Assembly for

the purpose of authorizing such additional expenditure shall ensure that any moneys borrowed from the Contingencies Fund shall be reimbursed from the moneys the expenditure of which shall be authorized by that Bill.

Remuneration of certain holders of public offices to be a charge on Consolidated Fund

211.-(1) Holders of public office to whom the provisions of this Article apply shall be paid salaries and allowances as shall be prescribed by a law enacted by a Parliament.

(2) The moneys for the salaries and allowances payable to the holders of offices to whom the provisions of this Article apply together with pension and gratuity for those entitled to such payments shall be a charge on the Consolidated Fund of the Government of the United Republic.

(3) The salary payable to the holder of a public office to whom the provisions of this Article apply together with his terms and conditions of service shall not be varied in a manner which is less beneficial to him, but these provisions shall not apply to allowances payable to the holder of such office.

(4) Where the holder of a public office to whom the provisions of this Article apply has the option to choose the salary or the terms and conditions of service, then for the purpose of construing the provisions of Subarticle (3) of this Article, the salary, the terms and conditions of service which he chooses shall be deemed to be more beneficial to him than any other salary or terms and conditions of service which he could have opted for.

(5) The provisions of this Article shall apply to the Chief Justice, the Deputy Chief Justice, Justice of the High Court of the United Republic, the Chairman of the Court of Appeal, Justice of the Court of Appeal, the Chairman and every member of the Commission for Human Rights and all other public servants specified by an Act of Parliament.

***(i) Public Debt and the Loans of the Government of
the United Republic***

National Debt

212.-(1) The national debt shall be secured by the Consolidated Fund of the United Republic of the Government of the United Republic.

(2) For the purposes of interpretation of this Article, “the National debt” means the debt itself and also the interest charged on it, monies deposited in respect of servicing the debt in instalments, and the entire charges and expenses incidental to the servicing of that debt.

The powers of the Government of the United Republic to borrow

213.-(1) The Government of the United Republic shall have the powers to borrow money from within the United Republic and without to meet the costs of the activities which are under its authority.

(2) the Parliament may enact legislation which shall:

- (a) specify the conditions to be followed by the Government when borrowing; and
- (b) provide the procedure for the Government to table reports concerning loans in the National Assembly.

(3) Pursuant to the provisions of Subarticle (2)(b), the report to be tabled in the National Assembly shall, among other things, indicate:

- (a) the amount of the debt and the interest charged on it;
- (b) how much has been expended or is to be expended pursuant to the relevant loan;
- (c) the procedure for paying the debt; and
- (d) the stage reached in servicing the debt.

Powers of the Government of the United Republic to borrow

214.-(1) The Partner Governments of the United Republic shall have the powers to borrow money from within the United of the Partner Republic or without to meet the costs of the activities Governments of which are under their authorities.

(2) Where a loan requires a guarantee, the Government of the United Republic, after consultation and agreement with a Partner Government, may provide guarantee of that loan.

(3) The National Assembly shall enact a law which shall specify the procedure to be followed when the Government of the United Republic intends to be a guarantor of the loan applied for by a Partner Government.

(4) For the period of three months since the end of a fiscal year, the Government shall publish in the Government Gazette a report indicating all the loans for which the Government was guarantor in the past fiscal year.

***(c) Sources of Revenue of the Government of the United Republic
and Public Appropriation***

Sources of revenue of the Government of the United Republic

215. The sources of revenue of the Government of the United Republic shall be:

- (a) income tax;
- (b) revenue collected from institutions of the United Republic;
- (c) contributions from the Partners of the United Republic;
- (d) loans from within and outside the United Republic.

Public Appropriation

216.-(1) In carrying out public appropriation, the Government and all institutions shall be required to put in place or use a just and transparent system that protects public interests, accountability, competitiveness and the value of money.

(2) In delivering decisions concerning public appropriation, the Government and its institutions shall be required to use or to put in place a system that directs them to purchase products that are produced within the United Republic pursuant to the provisions of this Article or any law enacted by Parliament.

(3) The National Assembly shall enact a law which shall impose conditions on the management and control of public appropriation.

(d) Bank of Tanzania

Bank of Tanzania

217.-(1) There shall be a Central Bank of the United Republic which shall be known as the “Bank of Tanzania” which shall have the following responsibilities:

- (a) to print bank notes and to control the circulation of money;
- (b) to prepare and manage Policies and Plans concerning the currency;
- (c) to manage and control foreign exchange;
- (d) to manage the Banks of the Partners of the United Republic.

(2) In the discharge of its duties, the Bank of Tanzania shall be independent and shall not be interfered with by way of being given directives or by way of being controlled by any person or any authority.

(3) The National Assembly shall enact legislation which shall impose restrictions on the composition of the Bank of the United Republic which shall ensure representation of both parts of the United Republic, authority, activities and performance of the Bank of Tanzania.

Banks of the Partner Governments

218. Partner Governments shall establish Banks which shall have the responsibility of maintaining an account into which the funds of a particular Partner Government shall be kept and of managing Financial Policies and commercial banks within their authority.

CHAPTER FIFTEEN DEFENCE AND SECURITY OF THE UNITED REPUBLIC

(a) Defence and National Security

National Security

219.-(1) Every citizen is responsible for the Defence and Security of the United Republic.

(2) The Security of the United Republic concerns the defence of the territory of the United Republic, including air, water bodies, the people of the United Republic, their property, freedom and other national interests against threats from within and outside the United Republic.

(3) The Defence and Security of the United Republic shall be strengthened and preserved in accordance with the following rules:

- (a) the national security shall be maintained in accordance with this Constitution and the National Assembly;
- (b) the national security shall be preserved in accordance with the law, including international laws, by fully upholding the rule of law and human rights; and
- (c) all National security organs shall respect various cultures of the society in the discharge of their duties.

The national defence and security organs

220.-(1) The National defence and security organs are:

- (a) The Tanzania People's Defence Force;
- (b) The Police Force of the United Republic of Tanzania; and

(c) The National Intelligence Department.

(2) The major function of the National defence and security organs and the security system is to protect the interests of the citizens and other persons, their property, rights and freedom, authorities, national unity and the territory of the United Republic.

(3) In performing their functions, the National defence and security organs and every employee of such institutions are prohibited:

(a) to practise any kind of favouritism;

(b) to perpetuate the interests of any political party or its policies;

(c) to sabotage political interests or a political plan which, according to this Constitution, is lawful;

(d) to threaten, rob citizens of their property or to maltreat them; and

(e) to obey an unlawful order.

(4) It is hereby prohibited for any person to establish an institution, a company, community or organization which is concerned with the National defence and security or an armed force, except in accordance with this Constitution or an Act of Parliament.

(5) The defence and security organs shall be under the authority of the President.

(6) The President may form a defence and security organ by being advised by the National Defence and Security Council.

(7) The National Assembly shall enact a law concerning the discharge of the functions, procedures and management of the National Defence and Security.

Establishment of the National Defence and Security Council

221.-(1) There shall be a National Defence and Security Council which shall consist of the following members:

(a) The President of the United Republic;

(b) The Vice-President of the United Republic;

(c) The President of Mainland Tanzania;

(d) The President of Zanzibar;

(e) Minister of Defence;

(f) Minister of Home Affairs;

(g) Minister of Foreign Affairs and International Relations;

- (h) Minister of National Security;
- (i) Minister of Finance and Economic Affairs
- (j) Attorney General;
- (k) Chief of the Defence Forces;
- (l) Director-General of the National Intelligence; and
- (m) Inspector-General of the Police Force of the United Republic of Tanzania.

(2) The Chairman may invite any person who holds a position in a Government institution, Parliament or the Judiciary to participate in a meeting of the National Defence and Security Council.

(3) There shall be a Secretariat of the National Defence and Security Council which shall be headed by the Chief of Staff.

(4) The meetings of the National Defence and Security Council shall be Chaired by the President or by the Vice-President in the absence of the President.

(5) The National Defence and Security Council shall make procedures for the conduct of its meetings.

(6) Parliament shall enact legislation which shall impose conditions on the carrying out of the functions of the National Defence and Security Council.

Functions of the National Defence and Security Council

222.-(1) The functions of the National Defence and Security Council shall be:

- (a) to coordinate local policies, foreign policies with military policies concerning the security of the Nation to enable the defence and security organs to cooperate fully;
- (b) to assess and investigate the goals that endanger the security of the Nation; and
- (c) to make policies concerning shared security interests of the security organs and to control such organs.

(2) The President shall table a report in the National Assembly concerning the state of security in the United Republic every year.

(b) Tanzania People's Defence Force

Establishment of the Tanzania People's Defence Force

223.-(1) There shall be a Tanzania People's Defence Force with the responsibility of maintaining the security of the citizens and the territory of the United Republic.

(2) The President may make other brigades of the Tanzania People's Defence Force which he shall deem necessary.

Appointment of the Chief of the Defence Forces of the Tanzania People's Defence Force

224. There shall be a Chief of the Defence Forces of the Tanzania People's Defence Force who shall be appointed by the President after consultations with the National Defence and Security Council.

Powers of the Commander-in- Chief

225.-(1) Without prejudice to the provisions of any law enacted by Parliament, among the powers of the President as Commander-in-Chief of the Armed Forces is to command the Armed Forces to engage in military operations connected with the defence of the United Republic, rescue operations to save life and property in times of emergency and other matters which the Commander-in-Chief shall deem necessary, and to that end the Commander-in -Chief may command the Armed Forces to engage in those operations in or outside Tanzania.

(2) Without prejudice to the provisions of a law enacted by Parliament, power over the following matters shall vest in the Commander-in-Chief, that is to say:

- (a) the appointment of top commanding officers in the Armed Forces of the United Republic;
- (b) the appointment of commanders of various units of the Armed; and
- (c) the suspension of any power vested in any member of the Armed Forces and pertaining to his being a member of such Force.

(3) Anything done by any member of the Armed Forces in contravention of an order issued by the Commander-in-Chief pursuant to the provisions of Subarticles (1) and (2) of this Article shall be void.

Commission for the Service of the Tanzania People's Defence Force

226.-(1) There shall be a Commission for the Service of the Tanzania People's Defence Force responsible for managing all issues concerning the service of the Tanzania People's Defence Force and of its brigades.

(2) The National Assembly shall enact a law which shall impose conditions on the composition, responsibility and other issues relating to the Commission for the Service of the Tanzania People's Defence Force.

(c) The Police Force of the United Republic

The Police Force of Tanzania

227.-(1) There shall be a Police Force of the United Republic which shall have the responsibility to protect the people and their property pursuant to the provisions of this Constitution.

(2) The National Assembly shall enact a law to impose conditions on the discharge of the functions and responsibilities of the Police Force of the United Republic without contravening the rights of the citizens and international laws.

Principles of the performance of the Police Force

228. In the exercise of its functions, the Police Force of the United Republic shall observe the following:

- (a) high level of professionalism and discipline among its staff;
- (b) protection and promotion of human rights;
- (c) principles of transparency and accountability;
- (d) to fight corruption and fraud; and
- (e) building good relations with the public.

Appointment of the Inspector General of Police

229. There shall be an Inspector-General of the Police Force who shall be appointed by the President after consultations with the National Defence and Security Council.

Commission for the Service of the Police Force

231.-(1) There shall be a Commission for the Service of the Police Force with the responsibility to control all issues relating to the service of the Police Force and its brigades.

(2) In recruiting the officers and other employees of the Police Force, the Commission for the Service of the Police Force shall observe the Rules and Principles which are stipulated in this Constitution.

(3) The National Assembly shall enact a law which shall impose conditions on the composition, responsibility and other issues relating to the Commission for the Service of the Police Force.

The Police Forces of the Partners of the United Republic

232.-(1) Without prejudice to the provisions of this Constitution, the Partner States of the United Republic may form police forces which shall be in charge of the security of the citizens and their property in their areas of residence.

(2) The Police Forces of the of the Partner States shall discharge their duties in cooperation with the Police Force of the United Republic to avoid clash in the exercise of the functions in their areas.

(d) The National Intelligence Department

Establishment of the National Intelligence Department

233.-(1) There shall be a National Intelligence Department of the United Republic.

(2) The National Intelligence Department of the United Republic shall have responsibility over the strengthening of the security of the United Republic and protecting this Constitution, the National interests and it shall perform other responsibilities as shall be prescribed by an Act of Parliament.

Appointment of the Director of the National Intelligence Department

234. The President, after discussions with the National Defence and Security Council, shall appoint the Director of the National Intelligence Department.

Security of the Partners of the United Republic

235. Subject to the provisions of this Constitution, the Partners of the United Republic shall form Departments or Organs which shall have responsibility over the security of their areas and which shall perform their functions by cooperating with the National Intelligence Department.

CHAPTER SIXTEEN
MISCELLANEOUS PROVISIONS

Provisions relating to Parliament

236.-(1) Any person holding any office established by this Constitution (including the office of Minister, Deputy Minister, or Member of designation, except an ex-officio Member of Parliament) may resign by from various giving notice in writing and signed by him, in accordance with the offices following procedure:

established by

- (a) if such person was appointed or nominated by one person, then this Constitution such notice of resignation shall be submitted to the person who appointed or nominated him, or where he was appointed, or nominated by a body of persons, then such notice of resignation shall be submitted to that body of persons;
- (b) if that person is the holder of the office of President, then the notice of resignation shall be submitted to the Speaker;
- (c) if that person is the Speaker or Deputy Speaker of the National Assembly, the notice of resignation shall be submitted to the National Assembly; and
- (d) if that person is a Member of Parliament, then that notice of resignation shall be submitted to the Speaker.

(2) A person who has given notice of resignation pursuant to the provisions of Subarticle (1) of this Article shall be deemed to have resigned from the day the notice of resignation is received by the person or body or persons concerned, or when it is received by any person authorized by a person or body of persons concerned to receive the notice of resignation, but where the notice of resignation states that that person will resign some later day after the receipt of that notice by the person or body of persons concerned, then that person shall be deemed to have resigned from such later day.

(3) Where any person holding any office established by this Constitution (including the office of the Minister, Deputy Minister or Member of Parliament, except an ex officio Member of Parliament) resigns, then, if he has all the necessary qualifications and is in every respect eligible, he may be reappointed or renominated to hold such office in accordance with the provisions of this Constitution.

(4) Nothing in the provisions of subarticle (3) shall preclude a person holding the office of President from being re-elected to that office while he holds the office of President.

Provisions relating to procedure of succession to office

237.-(1) For the purpose of interpreting the provisions of this Constitution in relation to the procedure of appointment to the service of the Government of the United Republic, it is hereby declared that any person having power pursuant to this Constitution to appoint or nominate another person to hold a certain office has also the power to appoint or nominate a person to act, or to temporarily perform the functions of that office:

Except that these provisions shall not apply to the offices of Minister, Deputy Minister, Justice of the High Court, Justice of the Court of Appeal, Member of the Commission for Human Rights and Good Governance or Member of the Independent Electoral Commission.

(2) The following rules shall also apply for the purposes of interpreting the provisions of this Constitution concerning the procedure of appointment to services of the Government of the United Republic:

(a) where a person holding a certain office pursuant to the provisions of the Constitution is on leave pending vacation of office, then another person may be appointed to that office, notwithstanding that the other person is still in service;

(b) where two or more persons concurrently hold a certain office pursuant to their appointment in accordance with the rules laid down in paragraph (a) of this Subarticle, then in those circumstances if the need arises to perform any duty connected with that office the person last appointed shall be deemed to be the only person holding such office;

(c) where pursuant to provisions of this Constitution a person is appointed to act in or to perform the functions of a certain office when the substantive holder of that office fails to perform the duties connected with that office, then it shall not be permitted to inquire into or to make any representations against such appointment on the ground that the substantive holder did not fail to perform the duties connected with that office.

Interpretation

238.-(1) In this Constitution unless the context otherwise requires -

“military law” means a law or command issued pursuant to a law regulating discipline in a Force;

“soldier” when used in connection with any armed force, includes any member of the armed force who in accordance with the military law of the Force, is subject to the discipline of that Force;

“Parliament” means the Parliament of the United Republic referred to in Article 105 of this Constitution;

“Political Party” means a political party which has been granted full registration in accordance with the laws of the land;

“the United Republic” means the United Republic of Tanzania;

“Chief Justice” means the Chief Justice of the Judiciary of the United Republic who is appointed in accordance with Subarticle 151, which includes the Deputy Chief Justice;

“Force” means any of the armed forces and includes any other force established by this Constitution or in accordance with law and which is governed by military law;

“Commonwealth” means the organization whose members include the United Republic and every country to which the provisions of the Citizenship Act apply;

“Office in the service of the Government of the United Republic” shall have the ordinary meaning of that expression and includes service in the Armed Forces of the United Republic and in the Police Force or other force established in accordance with law;

“court” means any court having jurisdiction in the United Republic except a court established by military law;

“Attorney General” means the Attorney General of the Government of the United Republic who is appointed in accordance with the provisions of Article 97;

“Citizen” means the Citizen of the United Republic in accordance with the provisions of this Constitution and the laws of the land;

“Government” means the Government of the United Republic and any Person who exercises functions or any authority on the behalf of the Government;

“Mainland Tanzania” means the whole of the territory of the United Republic which formerly was the territory of the Republic of Tanganyika;

“Zanzibar” means the whole of the territory of the United Republic which formerly was the territory of the People’s Republic of Zanzibar and which was previously referred to as “Tanzania Visiwani”;

“General Elections” or “people elections” means an election of a President and of the Members of Parliament representing electoral constituencies, which is held subsequent to the dissolution of Parliament;

“Minister” means a Member of Parliament appointed to the office of Minister, except Deputy Minister, and that definition shall also apply to the Vice-President;

- (2) The following rules shall be applied for the purpose of construing the provisions of the Constitution, that is to say -
- (a) whenever a reference is made to the function of the office of President it shall be construed to include powers to perform various duties and functions as the Head of the Government of the United Republic, and also such other functions or duties if so provided in this Constitution or in any other law that such other powers or duties are powers of the President;
 - (b) whenever reference is made to an office in the service of the Government it shall be construed that the office concerned is within the service of the Government of the United Republic unless it is stated otherwise and whenever reference is made to the Government’s department, it shall be construed that the department of the Government of the United Republic unless it is stated otherwise;
 - (c) if pursuant to the provisions of this Constitution there is any matter required to be performed or to be dealt with by any political party, then that matter shall be performed or dealt with by that party in accordance with the procedure laid down by that party for that purpose, and also in conformity with the provisions of this Constitution or any law enacted by Parliament for that purpose;
 - (d) for the purposes of this Constitution, a person shall not be deemed to hold office in the service of the Government of the United Republic by reason only that he is receiving pension or other payment of that kind in respect of his past service in the Government of the United Republic or in any former Government of Mainland Tanzania or in the Armed Forces or the Police Force of the Government of the United Republic or former Government of Mainland Tanzania or of Zanzibar;
 - (e) in this Constitution, unless the context requires otherwise, whenever reference is made to the holder of a certain office by reference to the designation of his office such reference shall be construed to include any person who is acting in, or who has been duly appointed to perform the functions of that office;
 - (f) in this Constitution wherever there is a reference to the power to remove the holder of an office in the service of the Government of the United Republic, it shall be construed that the power concerned includes the power conferred in accordance with the provisions of any law which requires or permits that person to retire:

Provided that the provisions of this rule shall not be construed as conferring power on any person to require a Justice of the Court of Appeal, Justice of the High Court or the Controller and Auditor-General to retire from office;

- (g) in this Constitution, wherever there is reference to a law which replaces or repeals another law, it shall be construed that the law concerned includes a law which amends that other law or which extends the application of that other law whether with or without modification or amendment, or a law which introduces new provisions in another law.

Title, commencement and application of this Constitution

239.-(1) This Constitution may be cited as the Constitution of the United Republic, 2013.

(2) This Constitution shall come into operation once it is promulgated by the President of the United Republic of Tanzania.

Repeal of the Constitution of the United Republic, 1977

240. The Constitution of the United Republic, 1977, shall be repealed and shall cease to be used once this Constitution comes into operation.

SCHEDULE

[Referred to in Article 60]

Union Matters

1. The Constitution of Tanzania and the Government of the United Republic;
2. Defence and Security of the United Republic;
3. Citizenship by Immigration;
4. The Currency and the Bank of Tanzania;
5. Foreign Affairs;
6. Registration of Political Parties; and
7. Income tax payable by individuals and by corporations, customs duty and excise duty on goods manufactured in Tanzania.

