



THE "KIKOSI MAALUM CHA KUZUIA MAGENDO" ACT, 2003

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ACT NO. 1 OF 2003

I ASSENT

Amani Abeid Karume

{ **AMANI ABEID KARUME** }
PRESIDENT OF ZANZIBAR
AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

17TH MARCH
....., 2003

AN ACT TO MAKE PROVISIONS FOR "KIKOSI MAALUM CHA KUZUIA MAGENDO" RELATING TO ITS ADMINISTRATION AND FUNCTIONS AND OTHER MATTER CONNECTED THEREWITH

ENACTED by the House of Representatives of Zanzibar.

PART I
PRELIMINARY PROVISIONS

Short title and commencement.

1. This Act may be cited as the "Kikosi Maalum cha Kuzuia Magendo" Act, 2003 and shall come into operation immediately after being assented to by the President.

Interpretation.

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

"Chief of KMKM" means the Chief of "Kikosi Maalum cha Kuzuia Magendo" appointed under section 5 of this Act;

"Committee" means the KMKM Staff Committee established under section 8 of this Act;



"court" means court martial established under section 16 of this Act;

"KMKM" means "Kikosi Maalum cha Kuzuia Magendo" established under section 3 of this Act;

"Minister" means the Minister for the time being responsible for KMKM;

"Officer" means a member of KMKM with the rank above sailor;

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

"Public emergency" includes war, riot, disaster or such circumstances which requires emergency action to be taken;

"Vessel" includes a ship, a boat and every kind of craft used in navigation, either on sea or inland water and includes aircraft.

"Smuggling" with its grammatical variations and cognate expressions means the exportation or carriage coastwise or the transfer or removal of goods with intent to remove the essential commodities and other restricted goods out of Zanzibar;

"Special Department Service Commission" means the special Departments Service Commission established under Act No. 7 of 1986.

"Smuggling" means

PART II **ESTABLISHMENT OF KMKM**

Establishment of
KMKM.

3. There is hereby established in Zanzibar a special force to be known as "Kikosi Maalum cha Kuzuia Magendo" which shall have the legal right to own and use various weapons and armament required to carry out its functions.



Duties of MKM.

4(1) The duties of MKM shall be as follows:

- (a) to ensure the Security of the territorial waters of Zanzibar.
- (b) to protect and defend marine natural resources;
- (c) to protect and defend the security of the country from spies and saboteurs coming by the sea;
- (d) to prevent smuggling activities in the country, by all means used;
- (e) to protect convoys of Government vessels transporting members of Public, National leaders or valuable goods in the event of war or public emergency;
- (f) to transport troops when called upon to do so;
- (g) to cooperate with the Tanzania People's Defense Forces, when mobilized in the defense of the United Republic of Tanzania;
- (h) to counter crimes committed at sea including illicit drugs trafficking and pirates;
- (i) to undertake search and rescue operations at sea and protection of Marine Environment;
- (j) to come to the AID of the Government during public emergence;
- (k) to undertake any assignment given by the President, taking into consideration the duties, expertise and resources of MKM.

(2) In the process of carrying out its functions under subsection (1) of this section, officers of MKM shall have powers to search, impound, and apprehend vessel,



vehicle or premises in the vessel, vehicle or Premises in the vicinity of landing places involved or suspected of engaging in smuggling of goods and other exported cash crops.

(3) After searching or apprehended property, crops or persons involved in the operation of its functions, KMKM shall be required to hand over such properties or persons to other authorities concerned in order other legal actions to be immediately taken.

PART III **ADMINISTRATION**

Chief of KMKM
and other
officers.

5(1) There shall be a Chief of KMKM who shall be appointed by the President among senior officers of KMKM.

(2) There shall be a Deputy Chief of KMKM who shall be appointed by the President among Senior officers of KMKM who shall be the principal assistant of the Chief of KMKM.

(3) The chief of KMKM, subject to the powers of the President and the Minister, shall have the command, direction and general superintendence of KMKM.

(4) The Chief of KMKM and Deputy Chief of KMKM shall not enter upon their duties of office until they have taken and subscribed the oath of allegiance and such oath before the President as may be prescribed by the Act of the House of Representatives.

Powers of the
Minister.

6. The Minister shall have powers to give directions and instructions relating to the general administration of KMKM and to approve policies and other strategic plans of KMKM presented to him.

Senior Command
appointments.

7(1) Senior command appointments shall be made by the President after consultation with Special Departments Service Commission.



(2) Junior command appointments shall be made by the Chief of KMKM after consultation with the KMKM Staff Committee.

(3) The ranks, authority and powers of command of officers and sailors shall be as prescribed by the Regulations made under this Act.

KMKM Staff
Committee.

8(1) There shall be a KMKM Staff Committee whose composition shall be prescribed in the Regulations and shall include senior and junior officers.

(2) The Committee shall be responsible for all matters prescribed in the Regulations relating to the administration of KMKM, subject to the powers of the Minister and Chief of KMKM.

Enrolment.

9(1) Any person shall be enrolled in KMKM as may be prescribed in the Regulations of KMKM and approved by Special Departments Service Commission.

(2) Every person enrolled in KMKM shall be bound to serve in KMKM until his service is terminated in accordance with the Regulations.

(3) Every person enrolled in KMKM shall take the oath of allegiance and such other declarations in such manner and in such form as may be prescribed in the Regulations.

Training.

10(1) The Chief of KMKM may cause any member of KMKM to be instructed, trained and exercised on shore or on board any vessel or partly on shore and partly on board any vessel within or without the limits of the United Republic of Tanzania or its territorial waters.

(2) Any person who willfully obstructs or interferes with the instructions, training or exercise of KMKM authorized under this section has committed an offence under this Act.



(3) Any animal, vehicle or vessel under his control may be removed with such force as is reasonable necessary by a Police Officer or by any officer of KMKM or by any Sailor on the order of the Officer of KMKM.

Promotion.

11(1) The promotion of senior and junior officers shall be made by the President after receiving recommendation from Special Departments Service Commission.

(2) The commissioning of sailor to become an officer of KMKM shall be made by the President after receiving recommendations from the Minister.

(3) The promotion of sailors shall be made by Chief of KMKM after consultations with KMKM Staff Committee.

PART IV **OFFENCE AND PENALTIES**

Dismissal &
release.

12(1)) An Officer or Sailor may be released or dismissed for such reasons and conditions as may be prescribed in the Regulations.

(2) Subject to the provisions of this section and except during public emergency an officer or sailor is entitled to be released at the expiration of the term of service for which is enrolled.

(3) Except as may be provided in the regulations all periods during which an officer or sailor has been absent from his duty by reasons of;

- (a) imprisonment;
- (b) desertion; or
- (c) absence without leave.

shall not be allowed to terminate his service.



(4) When a term of service for which an officer or sailor is enrolled expires during an emergence or within six months after the expiration of an emergence, he is liable to serve until the expiration of six months after the emergence has ceased to exist.

(5) An officer or sailor shall not be entitled to be released when as a result of having committed or being suspected of having committed a service offence proceeding against him is or likely to be taken.

Liability for loss or damage to public property.

13. The conditions under which and the extent to which officer or sailor liable in respect of loss of or damage to public property shall be as prescribed in the Regulations.

Demotion.

14(1) The demotion of an officer or sailor shall be carried out after proper military procedures has been followed.

(2) The President shall approve the demotion of any officer.

(3) The Chief of KMKM in consultation with KMKM Staff Committee shall approve the demotion of any sailor.

Redress of grievances.

15. Except in respect of matter that would properly be subject of an appeal or petition under the disciplinary proceedings an officer or sailor who considers that he suffered any personal oppression, injustice or other ill-treatment or that he has any other cause for grievance, may as a matter of right seek redress from Chief of KMKM through proper channel in such a manner and under such conditions as shall be prescribed in the Regulations.

Court martial.

16(1) There shall be a Court Martial and Lower which shall have the power and jurisdiction to try cases involved officers and sailors of KMKM for service offences.

(2) The composition, powers, and jurisdiction of each court shall be prescribed in the Regulations.



(3) The ordinary Court shall have no power and jurisdiction to a member of KMKM for service offences.

Offences related to duty and training.

17. Every officer or sailor who:-
- (a) without orders from his senior officer, improperly destroys or damages any property; or
 - (b) steals any money or property that has come in his possession as a result of his duties and responsibility; or
 - (c) assault of an individuals

shall be guilty of an offence and on conviction shall be liable to imprisonment for a term not exceeding five years.

Mutiny.

- 18(1) Any officer or sailor who:
- (a) takes part in a mutiny involving the use of violence or the threat of violence: or
 - (b) incites any other Officer or Sailor or any member of the Military Forces; or
 - (c) overthrows or resists lawful authority in any such Service of Force; or
 - (d) disobeys any such authority in such circumstances as to make the disobedience subversive disciplines.

shall be guilty of an offence and on conviction shall be liable to imprisonment for a term not less than five years.

Disobedience.

19. Any officer or sailor who:
- (a) strikes or otherwise uses violence to, offers violence to, an officer senior to or place in command over him; or



- (b) uses threatening or insubordinate language to any such officer ; or
- (c) quarrels or fights with any other officer; or
- (d) refuses to obey a lawful order of any such officer; or
- (e) defames the reputations of officer or sailor above him; or

shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two months.

Desertion.

20(1) Any officer or sailor who deserts from the KMKM shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not less than two years.

(2) No member of KMKM shall be found guilty of the offence of desertion unless the court is satisfied that he intended not to return to the KMKM.

(3) Where an officer or sailor has without lawful authority absented himself from his duties for continuous period of six months or more the court shall, unless the contrary proved, presume that he did not intend to return to the KMKM.

Absence without leave.

21(1) Any officer or sailor who absents himself without leave is guilty of an offence and on conviction shall be liable to imprisonment for a term not exceeding three months.

(2) Any officer or sailor absents himself without leave who:

- (a) without authority leaves his vessel or the place where his duty requires him to be; or



- (b) having been authorized to be absent from his vessels or the place where his duty requires him to be, fails to return to that vessel or place at the expiration of the period for which his absence was authorized.

shall be guilty of an offence and on conviction shall be liable to imprisonment for a term not exceeding three months.

Ill-treatment of inferiors.

22(1) Any officer or sailor who strikes or otherwise ill-treats any other officer or sailor who, by reason of rank or appointment is subordinate to him is guilty of an offence and on conviction is liable to imprisonment for a term not exceeding three months.

- (2) Any officer or sailor who:
 - (a) drinks any kind of alcohol while on duty;
 - (b) malingers or feigns or produces disease or infirmity; or
 - (c) aggravates, or delays the cure of disease or infirmity by misconduct or willful disobedience of orders of doctors -

shall be guilty of an offence and on conviction shall be liable to imprisonment for a term not exceeding three months.

Losing, stranding or hazarding vessels and failure to report.

23(1) Any officer or sailor who hazards, strands, grounds any vessel of KMKM, if he acted negligently is guilty of an offence and on conviction is liable to imprisonment for a term not exceeding two years.

(2) Any officer or sailor who loses, damages, hazards a property of KMKM, shall be guilty of an offence and on conviction is liable to imprisonment for a term not exceeding one year or fine not exceeding two hundred thousands (Tshs.200,000/=) or both.



(3) Any officer or sailor who, during exercise, without authority takes a vessel beyond the territorial waters of the United Republic of Tanzania, is guilty of offence and on conviction, is liable to imprisonment for a term not exceeding two years.

Offences by
other persons.

24.(1) Any person who is not a member of KMKM, incites, procures, counsels, aids, abets, assists or harbors a sailor or officer who is later convicted of a services offence shall be guilty of an offence and is liable on conviction to imprisonment for a term not exceeding six months.

(2) A certificate signed by the Minister that an officer or sailor was convicted by service tribunal for the purpose of proceeding under this section shall be conclusive evidence that the officer or sailor was so convicted.

Scale of
punishment.

25(1) The following punishments may be imposed on the officer or sailor in respect of service offences prescribed in this Act:-

- (a) imprisonment;
- (b) dismissal;
- (c) confinement;
- (d) reduction in rank;
- (e) fine;
- (f) reprimand; and
- (g) minor punishments

(2) When punishment is imposed the lower one shall be first considered than the higher one depending on the nature of the offence.

(3) The Regulations shall prescribe the impositions of penalties on service offences.



Immunity.

26. An officer or sailor of KMKM shall have legal immunity from prosecution while exercising his duties, provided that he was executing a lawful order and acted with reasonable force.

PART V
MISCELLANEOUS PROVISIONS

Compensation.

27(1) Any officer, sailor or person sustains injuries, damage or death while executing duties of KMKM or during training and exercise, shall be entitled to compensation as prescribed in the Regulations.

(2) No suit or other Civil proceeding shall lie against an individual officer or sailor for the recovery of damage for loss, or damage or injury to or trespass upon any property by execution of section 4 of this Act.

(3) No compensation shall be made or payable if the person or persons claiming compensation, willfully obstructed or interfered with instructions, training, exercise or campaign and the said damage injury or tress pass was occasion when necessary reasonable force was used.

Board of inquiry.

28(1) The President, the Minister, or the Chief of KMKM and where it is expedite that the Board shall be formed on any matter connected with the governance, discipline, administration or functions of the KMKM or affecting any officer or sailor or accident to any vessel, of the KMKM convene a board of inquiry for the purpose of investigating and reporting on any matter.

(2) A board of inquiry shall be constituted and its procedure shall be conducted in accordance with the Regulations.

Employment of KMKM in times of emergency.

29(1) The President may, during a state of war, insurrection, hostilities or public emergency:-

(a) call out the KMKM or any part thereof;



- (b) order that the KMKM or any part thereof be employed to serve with the Tanzania People's Defense Forces or otherwise in the defense of the United Republic.

(2) Where any part of the KMKM is, in pursuance of an order made under this sections, serving with the Tanzania Peoples Defense Forces or otherwise in the defense of the United Republic Tanzania, it shall be governed by and be subject to the Act governing the Tanzania People's Defense Force for that time.

Joint exercise
and maneuvers.

30(1) The President may, where he considers it appropriate so to do, declare, by notice in the gazette, KMKM or any part thereof to conduct joint exercises and maneuvers with the Tanzania People's Defense Forces or and such part of the KMKM shall be under the command of an officer commanding the Tanzania People's Defense Forces components.

(2) The President shall have prerogative powers to use the KMKM outside Zanzibar.

(3) The Chief of KMKM in consultation with the President of Zanzibar shall have the powers of deployment and operational use of KMKM Zanzibar.

Regulations.

31(1) The Minister may make general Regulations for the better carrying out the provisions of this Act.

(2) Without prejudice to the generality of the provisions of subsection (1) of this section, the Minister may make Regulations on any of the following matters:-

- (a) the establishment of the units of KMKM;
- (b) service structure and various ranks of the KMKM;
- (c) uniforms and insignia of ranks to be worn;



- (d) the structure of service tribunals of KMKM;
- (e) kind of gifts and presents to be given to the senior officer when terminated their services;
- (f) punishments and their execution;
- (g) procedure to be followed when a vessel is stranded or hazarded or in case of any accident;
- (h) any matter, which he thinks to be prescribed in the Regulations.

(3) The Minister, in consultation with the Minister for Finance, may make regulations relating to pensions, gratuities or allowances of officer or sailor or compensation of any person injured on the account of service and the use of public money.

Repeal of Act No.
13 of 1979.

32(1) The Kikosi Maalum cha Kuzuia Magendo Decree, No. 13 of 1979 is hereby repealed.

(2) Notwithstanding the repeal of the said Act anything done or established under the repealed Act shall be lawful and shall be considered as if done under this Act.

Passed by the House of Representatives 16th day of January, 2003.


{ KHAMIS JUMA CHANDE }
CLERK OF THE HOUSE OF REPRESENTATIVES