

**AN ACT TO REPEAL AND REPLACE A LAW
RELATING TO COMPANIES AND OTHER ASSOCIATIONS, TO
PROVIDE FOR MORE COMPREHENSIVE PROVISIONS FOR
REGULATION AND CONTROL OF COMPANIES, ASSOCIATIONS
ACT NO. 15 OF 2013**

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ACT NO. 15 OF 2013

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

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2013

**AN ACT TO REPEAL AND REPLACE A LAW RELATING TO
COMPANIES AND OTHER ASSOCIATIONS, TO PROVIDE FOR
MORE COMPREHENSIVE PROVISIONS FOR REGULATION
AND CONTROL OF COMPANIES, ASSOCIATIONS
AND RELATED MATTERS**

EN ACTED by the House of Representatives of Zanzibar

**PART I
PRELIMINARY PROVISIONS**

1. This Act may be cited as the Companies Act, 2013 and shall come into operation on such date as the Minister may by notice, published in the official gazette, appoint and the Minister may appoint different dates for the coming into operation of the different provisions of Parts of this Act.

2.(1) In this Act, unless the context otherwise require;-

"accounts" includes a company's group accounts whether prepared in the form of account or not;

"agent" does not include a person's counsel acting as such;

"annual return" means the return required to be made in the case of a company having share capital under section 129 and, in the case of a company not having a share capital under section 130;

"articles" means the articles of association of a company, as originally

	<p>framed or as already by special resolution, including so far as they apply to the company the regulations contained in Table A in the First Schedule;</p> <p>"auditor" means a Certified Public Accountant in public practice as recognised by the Ministry responsible for finance;</p> <p>"bankrupt" and "bankruptcy" include respectively insolvent and insolvency within the meaning of the Insolvency Act;</p> <p>"book and paper" and "book or paper" include accounts, deeds, writings and documents;</p> <p>"branch register" has the meaning assigned to it by section 125(1);</p> <p>"company" means a company formed and registered under this Act;</p> <p>"company limited by guarantee" and "company limited by shares" have the meanings assigned to them respectively by section 3(2);</p> <p>"contributory" has the meaning assigned to it by the Insolvency Act;</p> <p>"court" used in relation to a company means the court having jurisdiction to windup the company;</p> <p>"creditors voluntary winding up" has the meaning assigned to it by the Insolvency Act;</p> <p>"debenture" includes debenture stock, bonds and any other securities of a company whether constituting a charge on the assets of the company or not;</p> <p>"default fine" has the meaning assigned to it by section 269(1);</p> <p>"director" includes any person occupying the position of director by whatever name called;</p> <p>"document" includes summons, notice, order, and other legal process, and registers;</p> <p>"exempt private company" means an exempt private company as defined by section 134(3);</p> <p>"financial year" means, in relation to any body corporate, the period in respect of which any profit and loss account of the body corporate laid before it in general meeting is made up, whether that period is a year or not;</p> <p>"group accounts" has the meaning assigned to it by of section 156(1);</p> <p>"holding company" means a holding company as defined by section 160;</p> <p>"issued generally" means, in relation to a prospectus, issued to persons who are not existing members or debenture holders of the company;</p>
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	<p>"members' voluntary winding up" has the meaning assigned to it by the Insolvency Act;</p> <p>"memorandum" means the memorandum of association of a company, as originally framed or as altered in pursuance of any enactment;</p> <p>"the minimum subscription" has the meaning assigned to it by section 55(2);</p> <p>"officer", in relation to a body corporate, includes a director, manager or secretary;</p> <p>"prescribed" means, as respects the provisions of this Act relating to the winding up of companies, prescribed by Rules made by the High Court, and as respect the other provisions of this Act, prescribed by Regulations made by the Registrar;</p> <p>"private company" has the meaning assigned to it by section 30(1);</p> <p>"prospectus" means any prospectus, notice, circular, advertisement, or other invitation, offering to the public for subscription or purchase any shares or debentures of a company;</p> <p>"the Registrar" means the Registrar General appointed under <i>Registrar General's Act</i>;</p> <p>"resolution for reducing share capital" has the meaning assigned to it by section 74(2);</p> <p>"a resolution for voluntary winding up" has the meaning assigned to it in the Insolvency Act;</p> <p>"rules" means rules made by the Chief Justice for the purpose of regulating winding up proceedings under the Insolvency Act, and includes forms;</p> <p>"share" means share in the share capital of a company, and includes stock except where a distinction between stock and shares is expressed or implied;</p> <p>"share warrant" has the meaning assigned to it by section 90(2);</p> <p>"statutory meeting" means the meeting required to be held by section 136(1);</p> <p>"statutory report" has the meaning assigned to it by of section 137(2);</p> <p>"subsidiary" means a subsidiary as defined by section 160 (1);</p> <p>"Table A" means Table A in the First Schedule;</p> <p>"the time of the opening of the subscription lists" has the meaning assigned to it by section 58(1);</p> <p>"unlimited company" has the meaning assigned to it under section 3(3).</p>
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(2) A person shall not be deemed to be within the meaning of any provision in this Act a person in accordance with whose directions or instructions the directors of a company are accustomed to act, by reason only that the directors of the company act on advice given by him in a professional capacity.

(3) References in this Act to a body corporate or to a corporation shall be construed as not including a corporation sole but as including a company incorporated outside Zanzibar.

(4) Any provision of this Act overriding or interpreting a company's articles shall apply also in relation to its memorandum as it applies in relation to its articles.

PART II
INCORPORATION OF COMPANIES AND MATTERS
INCIDENTAL THERETO

3.(1) Any seven or more persons, or, where the company to be formed will be a private company, any two or more persons, associated for any lawful purpose may by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Act in respect of registration form an incorporated company with or without limited liability.

(2) Any person may formed limited company known as Private Member Company by subscribing his name to a Memorandum and by complying with the requirements of the provisions of this Act on registration of Company.

(3) Such a company may be either:-

- (a) a company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them (in this Act termed "a company limited by shares"); or
- (b) a company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being wound up (in this Act termed "a company limited by guarantee"); or
- (c) a company not having any limit on the liability of its members (in this Act termed "an unlimited company").

4.(1) The memorandum of every company shall be printed in the English or Kiswahili language and shall state:-

- (a) the name of the company, with "limited" as the last word of the

name in the case of a company limited by shares or by guarantee;

(b) the objects of the company.

(2) The memorandum of a company limited by shares or by guarantee shall also state that the liability of its members is limited.

(3) The memorandum of a company limited by guarantee shall also state that each member undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

(4) In the case of a company having a share capital:-

(a) the memorandum shall also, unless the company is an unlimited company, state the amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount;

(b) no subscriber of the memorandum may take less than one share;

(c) each subscriber shall write opposite to his name the number of shares which he takes.

(5) Where the company's memorandum states that the object of the company is to carry on business as a general commercial company:-

(a) the object of the company is to carry on any trade or business whatsoever; and

(b) the company has the power to do all such things as are incidental or conducive to carrying on of any trade or business by it.

5. The memorandum shall be attested by legal practitioner and signed by each subscriber.

6. A company may not alter the conditions contained in its memorandum except in the cases in the mode and to the extent for which express provision is made in this Act. Mode and extent to which objects of company may be altered

7. (1) A company may, by special resolution, alter the provisions of its memorandum with respect to the objects of the company, so far as may be required to enable it:-

(a) to carry on its business more economically or more efficiently;
or

(b) to attain its main purpose by new or improved means; or

- (c) to enlarge or change the local area of its operations; or
- (d) to carry on some business which in existing circumstances may conveniently or advantageously be combined with the business of the company; or
- (e) to restrict or abandon any of the objects specified in the memorandum; or
- (f) to sell or dispose of the whole or any part of the undertaking of the company; or
- (g) to amalgamate with any other company or body or person.

Provided that an application shall not be made by any person who has consented to or voted in favour of the alteration unless the company is a single member private company.

(2) An application under this section may be made by the holders of not less in the aggregate than fifteen per centum in nominal value of the company's issued share capital or any class thereof or, if the company is not limited by shares not less than fifteen per centum of the company's members.

(3) An application under this section shall be made within twenty-one days after the date on which the resolution altering the company's objects was passed, and may be made on behalf of the persons entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(4) On an application under this section the court may make an order confirming the alteration either wholly or in part and on such terms and conditions as it thinks fit, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the court for the purchase of the interests of dissentient members, and may give such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement:

Provided that no part of the capital of the company shall be expended in any such purchase.

(5) In the case of a company which is, by virtue of a licence from the Minister, exempt from the obligation to use the word "limited" as part of its name, a resolution altering the company's objects shall also require the same notice to the Registrar as to members of the company.

(6) Where a company passes a resolution altering its objects-

- (a) if no application is made with respect thereto under this section it shall within fifteen days from the end of the period for making such an application deliver to the Registrar a printed copy of its memorandum as altered; and

(b) If such an application is made it shall:-

- (i) Forthwith give notice of that fact to the Registrar; and
- (ii) Within fifteen days from the date of any order cancelling or confirming the alteration, deliver to the Registrar a certified copy of the order, and in the case of an order confirming the alteration a printed copy of the memorandum as altered,

Provided that the court may by order at any time extend the time for the delivery of documents to the Registrar under paragraph (b) of this subsection for such period as the court may think proper.

(7) If a company makes default in giving notice or delivering any document to the Registrar as required by subsection (6), the company and every officer of the company who is in default shall be liable to a default fine.

(8) The validity of an alteration of the provisions of a company's memorandum with respect to the objects of the company shall not be questioned on the ground that it was not authorised by subsection (1) of this section except in proceedings taken for the purpose (whether under this section or otherwise) before the expiration of twenty-one days after the date of the resolution in that behalf; and where any such proceedings are taken otherwise than under this section the two last foregoing subsections shall apply in relation thereto as if they had been taken under this section and as if an order declaring the alteration invalid were an order cancelling it and as if an order dismissing the proceedings were an order confining the alteration.

8. There may in the case of a company limited by shares, and there shall in the case of a company limited by guarantee or unlimited, be registered with the memorandum and articles of association signed by the subscribers to the memorandum and prescribing regulations for the company.

9.(1) In the case of an unlimited company the articles shall state the number of members with which the company proposes to be registered and, if the company has a share capital, the amount of share capital with which the company proposes to be registered.

(2) In the case of a company limited by guarantee, the articles must state the number of members with which the company proposes to be registered.

(3) Where an unlimited company or a company limited by guarantee has increased the number of its members beyond the registered number, it shall, within fifteen days after the increase was resolved on or took place give to the Registrar notice of the increase, and the Registrar shall record the increase.

If default is made in complying with this subsection, the company and every officer of the company who is in default shall be liable to a default fine.

10.(1) Articles of association may adopt all or any of the regulations contained in Table A.

(2) In the case of a company limited by shares, if articles are not registered, or, if articles are registered, in so far as the articles do not exclude or modify the regulations contained in Table A, those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.

11. Articles shall be:-

- (a) printed in English or Kiswahili language;
- (b) divided into paragraphs numbered consecutively;
- (c) attested by legal practitioner and signed by each subscriber of the memorandum of association

12.(1) Subject to the provision of this Act and to the conditions contained in its memorandum, a company may by special resolution alter or add to its articles.

(2) Any alteration or addition so made in the articles shall, subject to the provisions of this Act be as valid as if originally contained therein, and be subject in like manner to alteration by special resolution.

13. The form of:-

- (a) the memorandum of association of a company limited by shares;
- (b) the memorandum and articles of association of a company limited by guarantee and not having a share capital;
- (c) the memorandum and articles of association of a company limited by guarantee and having a share capital;
- (d) the memorandum and articles of association of an unlimited company having a share capital, shall be respectively in accordance with the forms set (out in Tables B, C, D, E and F in the First Schedule, or as near thereto as circumstances admit.

Provided that the Minister may, from time to time amend any of such Table.

14. The memorandum and articles, if any, shall be delivered to the Registrar who shall register and retain them.

15.(1) On the registration of the memorandum of a company the Registrar shall certify under his hand that the company is incorporated and, in the case of

a limited company, that the company is limited.

(2) From the date of incorporation mentioned in the certificate of incorporation, the subscribers of the memorandum, together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, with power to hold land and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Act.

16. A certificate of incorporation given by the Registrar in respect of any association shall be conclusive evidence that all the requirements of this Act in respect of registration and of matters precedent and incidental thereto have been complied with, and that the association is a company authorized to be registered and duly registered under this Act.

(2) A statutory declaration by an advocate of the High Court engaged in the formation of the company, or by a person named in the articles as director or secretary of the company, of compliance with all or any of the said requirements shall be produced to the Registrar, and the Registrar may accept such a declaration as sufficient evidence of compliance.

17.(1) Subject to the provisions of this section, a company registered as unlimited may register as limited, but the registration of an unlimited company as a limited company shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred, or any contract entered into by, to, with or on behalf of the company before the registration.

(2) On registration in pursuance of this section the Registrar shall close the former registration of the company, and may dispense with the delivery to him of copies of any documents with copies of which he was furnished on the occasion of the original registration of the company, but, save as aforesaid, the registration shall take place in the same manner and shall have effect as if it were the first registration of the company.

18. A company may by special resolution and with the approval of the Registrar signified in writing change its name.

(2) Where a company changes its name under this section, the Registrar shall enter the new name on the register in place of the former name, and shall issue a certificate of incorporation to meet the altered circumstances of the case.

(3) A change of name by a company under this section shall not affect any rights or obligations of the company or render defective any legal proceedings by or against the company, and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name

19.(1)Where it is proved to the satisfaction of the Registrar that an association about to be formed as a limited company is to be formed for promoting commerce, art, science, religion, charity or any other useful object, and intends to apply its profits, if any, or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the Registrar may direct that the association may be registered as a company with limited liability, without the addition of the word "limited" to its name, and the association may be registered accordingly and shall, on registration, enjoy all the privileges and (subject to the provisions of this section) be subject to all the obligations of a limited company.

(2) Where it is proved to the satisfaction of the Registrar that:-

- (a) the objects of a company registered under this Act as a limited company are restricted to those specified in subsection (1) and to objects incidental or conducive thereto; and
- (b) by its constitution the company is required to apply its profits, if any, or other income in promoting its objects and is prohibited from paying any dividend to its

the Registrar shall authorise the company to make by special resolution a change in its name including or consisting of the omission of the word "limited", and of section 18(2) and (3) shall apply to a change of name under this subsection as they apply to a change of name under that section

(3) The authorization by the Registrar under this section may be granted on such conditions and subject to such regulations as the Registrar thinks fit, and those conditions and regulations shall be binding on the body to which the authorization is granted, and (where the grant is under subsection (1) shall, if the Registrar so directs, be inserted in the memorandum and articles, or in one of those documents.

(4) A body to which a authorization is granted under this section shall be excepted from the provisions of this Act relating to the use of the word "limited" as any part of its name, the publishing of its name and the sending of lists of members to the Registrar.

(5) The authorization under this section may at any time be revoked by the Registrar, and upon revocation the Registrar shall enter the word "limited" at the end of the name upon the register of the body to which it was granted, and the body shall cease to enjoy the exemptions and privileges or, as the case may be, the exemptions granted by this section.

Provided that, before the authorization is so revoked, the Registrar shall give to the body notice in writing of the intention to revoke, and shall afford it an opportunity of being heard in opposition to the revocation.

(6) Where a body in respect of which, an authorization under this section is in force may not alter the provisions of its memorandum or its articles with respect to those requirements referred to in subsection (2) without the consent of the Registrar, provided that the Registrar may vary the authorization by making it subject to such conditions and regulations as the Registrar thinks fit, in lieu of or in addition to the conditions and regulations, if any, to which the authorization was formerly subject.

(7) Where an authorization granted under this section to a body the name of which contains the words "Chamber of Commerce" is revoked, the body shall, within a period of six weeks from the date of revocation or such longer period as the Registrar may think fit to allow, change its name to a name which does not contain those words, and:-

- (a) the notice to be given under the proviso to subsection (5) of this section to that body shall include a statement of the effect of the foregoing provisions of this subsection; and
- (b) subsections (3) and (4) of section 19 shall apply to a change of name under this subsection as they apply to a change of name under that section.

(8) if the body makes default in complying with the requirements of subsection 7, the body and every officer of the body shall be liable to a fine and for every day during which the default continues shall be liable to a default fine.

Power to require company to abandon misleading name.

20. If in the Registrar's opinion the name by which a company is registered gives so misleading an indication of the nature of its activities as to be likely to cause harm to the public, he may direct it to change its name.

(2) The direction shall, if not duly made the subject of an application to the court under subsection (3), be complied with within a period of six weeks from the date of the direction or such longer period as the Registrar may think fit to allow.

(3) The company may, within a period of three weeks from the date of the direction, apply to the court to set it aside; and the court may set the direction aside or confirm it and, if it confirms the direction, shall specify a period within which it must be complied with.

(4) If a company makes default in complying with a direction under this section, it is liable to a fine and, for continued contravention, to a default fine.

(5) Where a company changes its name under this section, the Registrar shall enter the new name on the register in place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case

and the change of name has effect from the date on which the altered certificate is issued.

(6) A change of name by the company under this section does not affect any of the rights or obligations of the company, or render defective any legal proceedings by or against it; and any legal proceedings that might have been continued or commenced against it under its former name may be continued or commenced against it under its new name.

21. If any person trades or carries on any business or profession under a name or title of which "limited", or any contractions or imitation of that word, is the last word, that person, unless duly incorporated with limited liability, commits an offence.

(2) A person who is not a public company commits an offence if he carries out any trade, profession or business under a name which includes, as its last part, the words "public limited company" or any contractions thereof.

(3) A public limited company commits an offence if in circumstances in which the fact that it is a public company is likely to be material to any person, it uses a name which may reasonably be expected to give the impression that it is a private company.

(4) A person commits an offence under subsections (1), (2), or (3) and, if that person is a company, any officer of the company which is in default, is liable to a fine and, for continued contravention, to a default fine.

22. Subject to the provisions of this Act, the memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed by each member, and contained covenants on the part of each member to observe all the provisions of the memorandum and of the articles.

(2) All money payable by any member to the company under the memorandum or articles shall be a debt due from him to the company.

23. (1) In the case of a company limited by guarantee and not having a share capital, every provision in the memorandum or articles or in any resolution of the company purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member shall be void.

(2) For the purpose of the provisions of this Act relating to the memorandum of a company limited by guarantee and of this section, every provision in the memorandum or articles, or in any resolution, of a company limited by guarantee, purporting to divide the undertaking of the company into shares or interests shall be treated as a provision for a share capital, notwithstanding that the nominal amount or number of the shares or interests is not specified thereby.

24. Notwithstanding anything in the memorandum or articles of a company, no member of the company shall be bound by an alteration made in the memorandum or articles after the date on which he became a member, if and so far as the alteration requires him to take or subscribe for more shares than the number held by him at the date on which the alteration is made, or in any way increases his liability as at that date to contribute to the share capital of, or otherwise to pay money to, the of company:

Provided that this section shall not apply in any case where the member agrees in writing, either before or after the alteration is made, to be bound thereby.

25. Subject to the provisions of section 25 any condition contained in a company's memorandum which could lawfully have been contained in articles of association instead of in the memorandum may, subject to the provisions of this section, be altered by the company by special resolution:-

Provided that if an application is made to the court for the alteration to be cancelled, it shall not have effect except in so far as it is confirmed by the court.

(2) This section shall not apply where the memorandum itself pro-vides for or prohibits the alteration of all or any of the said conditions, and shall not authorise any variation or abrogation of the special rights of any class members.

(3) Section 7 (2), (3), (4), (6) and (7) shall apply in relation to any alteration and to any application made under this section as they apply in relation to alterations and to applications made under that section .

26.(1) A company shall, on being so required by any member, send to him a copy of the memorandum and of the articles, if any, subject to payment as the company may prescribe.

(2) If a company makes default in complying with this section, the company and every officer of the company who is in default shall be liable for each offence to a default fine.

27.(1) Where an alteration is made in the memorandum of a company, every copy of the memorandum issued after the date of the alteration shall be in accordance with the alteration.

(2) If, where any such alteration has been made, the company at any time after the date of the alteration issues any copy of the memorandum which is not in accordance with the alteration, it shall be liable to a default fine for each copy so issued, and every officer of the company who is in default shall be liable to the like fine.

Membership of Company

28.(1) The subscribers of the memorandum of a company be deemed to have

agreed to become members of the company, and member on its registration shall be entered as members in its register of members.

(2) Every other person who agrees to become a member of a company and whose name is entered in its register of members, shall be a member of the company.

29.(1) Except in the cases hereafter in this section mentioned, a body corporate cannot be a member of a company which is its holding company, and any allotment or transfer of shares in a company to its subsidiary shall be void.

(2) Nothing in this section shall apply where the subsidiary is concerned as personal representative, or where it is concerned as trustee, unless the holding company or a subsidiary thereof is beneficially interested under the trust and is not so interested only by way of security for the purposes of a transaction entered into by it in the ordinary course of a business which includes the lending of money.

(3) Subject to subsection (2) of this section, subsection (1) thereof shall apply in relation to a nominee for a body corporate which is a subsidiary, as if references in the said subsection (1) to such a body corporate included references to a nominee for it.

(4) In relation to a company limited by guarantee or unlimited which is a holding company, the reference in this section to shares, whether or not it has a share capital, shall be construed as including a reference to the interest of its members as such, whatever the form of that interest

Private Companies

30.(1) For the purposes of this Act, the expression "private company" means a company which by its articles:-

- (a) restricts the right to transfer its shares;
- (b) limits the number of its members to fifty, not including persons who are in the employment of the company and persons who, having been formerly in the employment of the company, were while in that employment, and have continued after the determination of that employment to be, members of the company; and
- (c) prohibits any invitation to the public to subscribe for any shares or debentures of the company.

(2) Where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this section, be treated as a single member.

(3) Notwithstanding the provisions of subsection (1)(b) and (2), number of member for Single Member Private Company shall not exceed one and no share shall be held by more than one person.

31. Where the articles of a company include the provisions which, under section 30, are required to be included in the articles of a company in order to constitute it a private company but default is made in complying with any of those provisions, the company shall cease to be entitled to the privileges and exemptions conferred on private companies under the provisions contained in section 33 and 135(1) and thereupon the provisions contained in the first, third and fourth of those enactments shall apply to the company as if it were not a private company and the provisions contained in the second of those enactments shall cease to apply to the company:

Provided that the court, on being satisfied that the failure to comply with the conditions was accidental or due to inadvertence or to some other sufficient cause, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any other person interested and on such terms and conditions as seem to the court just and expedient, order that the company be relieved from such consequences as aforesaid.

32. (1) If a company, being a private company, alters its articles in such manner that they no longer include the provisions which, under section 30, are required to be included in the articles of a company in order to constitute it a private company, the company shall, as on the date of alteration, cease to be a private company and shall, within a period of fourteen days after the said date, deliver to the Registrar for registration a statement in lieu of prospectus in the prescribed form and containing the particulars set out in the Regulations made under the Act.

(2) Every statement in lieu of prospectus delivered under the foregoing subsection shall, where the person making any such report as aforesaid have made therein or have, without giving the reasons, indicated therein any such adjustments as are stated in the regulations, have endorsed thereon or attached thereto a written statement signed by those persons setting out the adjustments and giving the reasons therefore.

(3) If default is made in complying with subsection (1) or (2) of this section, the company and every officer of the company who is in default shall be liable to a default fine.

(4) Where a statement in lieu of prospectus delivered to the Registrar under subsection (1) of this section includes any untrue statement, any person who authorized the delivery or the statement in lieu of prospectus for registration shall be liable on conviction to imprisonment for a term not exceeding two years or a fine not exceeding one million shillings, or both, unless he proves either that the untrue statement was immaterial or that he had

reasonable ground to believe and did up to the time of the delivery for registration of the statement in lieu of prospectus believe that the untrue statement was true.

(5) For the purposes of this section:-

- (a) a statement included in a statement in lieu of prospectus shall be deemed to be untrue if it is misleading in the form and context in which it is included; and
- (b) a statement shall be deemed to be included in a statement in lieu of prospectus if it is contained therein or in any report or memorandum appearing on the face thereof or by reference incorporated therein.

33. (1) If at any time the number of members of a company is reduced, in the case of a private company, below two, or, in the case of any other company, below seven, and it carries on business for more than six months while the number is so reduced, in the case if a private company, every officer and in the case of any other company every person who is a member of the company during the time that it so carries on business after those six months and is cognizant of the fact that it is carrying on business with fewer than one member, or seven members, as the case may be shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be severally sued therefore.

"Provided that this provision shall not apply to a single member limited Liability Company".

(2) The single shareholder can be personally liable and sued on his own name where he contravenes the provisions of this Act".

34.(1) There shall be entered in the company's register of members, the name and address of the sole member, a statement that the company has only one member.

(2) Where the company is formed by two or more persons under section 3 of this Act and the number of members of a limited company falls to one, or if an unlimited company with only one member becomes a limited company on re-registration, there shall upon the occurrence of that event be entered in the company's register of members, with the name and address of the sole member:-

- (a) a statement that the company has only one member, and
- (b) the date on which the company became a company having only one member.

(3) Where the company is formed by two or more persons and the number of members of a limited company falls to one the company may be converted to

be a single shareholder member by transferring the nominee holding to the then sole proprietor without re- registration requirements.

(4) Where the membership of a limited single shareholder company increases from one to two or more members, there shall upon the occurrence of that event be entered in the company's register of members, with the name and address of the person who was formerly the sole member:-

- (a) a statement that the company has ceased to have only one member, and
- (b) the date on which that event occurred.

(5) If a company makes default in complying with this section, an offence is committed by:-

- (a) the company, and
- (b) every officer of the company who is in default.

(6) A person guilty of an offence under this section is liable on summary conviction to a fine.

PART III

A COMPANY'S CAPACITY AND RELATED MATTERS

35. The validity of an act done by a company shall not be called into question on the ground of lack of capacity by reason of anything in the company's constitution.

Power of directors to bind the company

36.(1) In favour of a person dealing with a company in good faith, the power of the directors to bind the company, or authorise others to do so, is deemed to be free of any limitation under the company's constitution.

(2) For this purpose:-

- (a) a person "deals with" a company if he is a party to any transaction or other act to which the company is a party,
- (b) a person dealing with a company:-
 - (i) is not bound to enquire as to any limitation on the powers of the directors to bind the company or authorise others to do so,
 - (ii) is presumed to have acted in good faith unless the contrary is proved, and
 - (iii) is not to be regarded as acting in bad faith by reason only of his knowing that an act is beyond the powers of the

directors under the company's constitution.

(3) The references above to limitations on the directors' powers under the company's constitution include limitations deriving:-

- (a) from a resolution of the company or of any class of shareholders, or
- (b) from any agreement between the members of the company or of any class of shareholders.

(4) This section does not affect any right of a member of the company to bring proceedings to restrain the doing of an action that is beyond the powers of the directors.

But no such proceedings lie in respect of an act to be done in fulfilment of a legal obligation arising from a previous act of the company.

(5) This section does not affect any liability incurred by the directors, or any other person, by reason of the directors' exceeding their powers.

(6) This section has effect subject to section 37 (transactions with directors or their associates), and section 38 (companies that are charities).

37.(1) This section applies to a transaction if or to the extent that its validity depends on section 36 (power of directors deemed to be free of limitations under company's constitution in favour of person dealing with company in good faith).

Nothing in this section shall be read as excluding the operation of any other enactment or rule of law by virtue of which the transaction may be called in question or any liability to the company may arise.

(2) Where:-

- (a) a company enters into such a transaction, and
- (b) the parties to the transaction include:-
 - (i) a director of the company or of its holding company, or
 - (ii) a person connected with any such director,

the transaction is voidable at the instance of the company.

(3) Whether or not it is avoided, any such party to the transaction as is mentioned in subsection (2)(b)(i) or (ii), and any director of the company who authorised the transaction, is liable:-

- (a) to account to the company for any gain he has made directly or indirectly by the transaction, and
- (b) to indemnify the company for any loss or damage resulting from the transaction.

(4) The transaction ceases to be voidable if:-

- (a) restitution of any money or other asset which was the subject matter of the transaction is no longer possible, or
- (b) the company is indemnified for any loss or damage resulting from the transaction, or
- (c) rights acquired bona fide for value and without actual notice of the directors' exceeding their powers by a person who is not party to the transaction would be affected by the avoidance, or
- (d) the transaction is affirmed by the company.

(5) A person other than a director of the company is not liable under subsection (3) if he shows that at the time the transaction was entered into he did not know that the directors were exceeding their powers.

(6) Nothing in the preceding provisions of this section affects the rights of any party to the transaction not within subsection (2)(b)(i) or (ii).

But the court may, on the application of the company or any such party, make an order affirming, severing or setting aside the transaction on such terms as appear to the court to be just.

(7) In this section:-

- (a) "transaction" includes any act; and
- (b) the reference to a person connected with a director has the same meaning as in Part V (company directors).

38.(1) Sections 35 and 36 (company's capacity and power of directors to bind company) shall not apply to the acts of a company that is a charity except in favour of a person who:-

- (a) does not know at the time the act is done that the company is a charity, or
- (b) gives full consideration in money or money's worth in relation to the act in question and does not know (as the case may be):-
 - (i) that the act is not permitted by the company's constitution; or
 - (ii) that the act is beyond the powers of the directors.

(2) Where a company that is a charity purports to transfer or grant an interest in property, the fact that (as the case may be):-

- (a) the act was not permitted by the company's constitution, or

- (b) the directors in connection with the act exceeded any limitation on their powers under the company's constitution,

shall not affect the title of a person who subsequently acquires the property or any interest in it for full consideration without actual notice of any such circumstances affecting the validity of the company's act.

(3) In any proceedings arising out of subsection (1) or (2) the burden of proving:-

- (a) that a person knew that the company was a charity, or
- (b) that a person knew that an act was not permitted by the company's constitution or was beyond the powers of the directors, lies on the person asserting that fact.

(4) In the case of a company that is a charity the affirmation of a transaction to which section 37 applies (transactions with directors or their associates) is ineffective without the prior written consent of the Minister.

39.(1) A contract may be made:-

- (a) by a company in writing under its common seal, or
- (b) on behalf of a company, by a person acting under its authority, express or implied.

(2) Any formalities required by law in the case of a contract made by an individual also apply, unless a contrary intention appears, to a contract made by or on behalf of a company.

40.(1) A document is executed:-

- (a) by a company by the affixing of its common seal; or
- (b) by execution of document according to the following subsections.

(2) A document is validly executed by a company if it is signed on behalf of the company:-

- (a) by two authorized signatories; or
- (b) by a director of the company in the presence of a witness who attests the signature.

(3) The following are "authorised signatories" for the purposes of subsection (2):-

- (a) every director of the company, and

(b) in the case of a private company with a secretary or a public company, the secretary (or any joint secretary) of the company.

(4) A document signed in accordance with subsection (2) and expressed, in whatever words, to be executed by the company has the same effect as if executed under the common seal of the company.

(5) In favour of a purchaser a document is deemed to have been duly executed by a company if it purports to be signed in accordance with subsection (2); for the purpose of this subsection "purchaser" means a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person who for valuable consideration acquires an interest in property.

(6) Where a document is to be signed by a person on behalf of more than one company, it is not duly signed by that person for the purposes of this section unless he signs it separately in each capacity.

(7) References in this section to a document being (or purporting to be) signed by a director or secretary are to be read, in a case where that office is held by a firm, as references to its being (or purporting to be) signed by an individual authorised by the firm to sign on its behalf.

(8) This section applies to a document that is (or purports to be) executed by a company in the name of or on behalf of another person whether or not that person is also a company.

41.(1) A company shall have a common seal on which its name is engraved in legible characters.

(2) If a company fails to comply with subsection (1) an offence is committed by:-

- (a) the company, and
- (b) every officer of the company who is in default.

(3) An officer of a company, or a person acting on behalf of a company, commits an offence if he uses, or authorises the use of, a seal purporting to be a seal of the company on which its name is not engraved as required by subsection (1).

(4) A person who commits an offence under this section shall be liable on summary conviction to a fine.

42.(1) A document is validly executed by a company as a deed if:-

- (a) it is duly executed by the company, and
- (b) it is delivered as a deed.

(2) For the purposes of subsection (1)(b) a document is presumed to be delivered upon its being executed, unless a contrary intention is proved.

43.(1) A company may, by instrument executed as a deed, empower a person, either generally or in respect of specified matters, as its attorney to execute deeds or other documents on its behalf.

(2) A deed or other document so executed, whether in Zanzibar or elsewhere, has effect as if executed by the company.

44. A document or proceeding requiring authentication by a company shall be signed by a director, secretary or other authorised officer of the company, and under its common seal.

PART IV SHARE CAPITAL AND DEBENTURES

45.(1) In this Part, sections 46 to 56 and 63 shall apply to public companies only.

(2) A private company (other than a company limited by guarantee and not having a share capital) commits an offence if it:-

- (a) offers to the public (whether for cash or otherwise) any shares in or debentures of the company; or
- (b) allots or agrees to allot (whether for cash or otherwise) any shares in or debentures of the company with a view to all or any of those shares or debentures being offered for sale to the public.

(3) A company commits an offence under subsection (2) and any officer of it who is in default, is liable to a fine.

(4) Nothing in this section shall affect the validity of any allotment or sale of shares or debentures, or any agreement to allot or sell shares or debentures.

46. A prospectus issued by or on behalf of a company or in relation to an intended company shall be dated, and that date shall, unless the contrary is proved, be taken as the date of publication of the prospectus.

47.(1) Every prospectus issued by or on behalf of a company, or by or on behalf of any person who is or has been engaged or interested in the formation of the company, must state the matters specified in the Regulations made under this Act.

(2) A condition requiring or binding an applicant for shares in or debentures of a company to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document or

matter not specifically referred to in the prospectus, shall be void.

(3) Subject to the provisions of section 48, it shall not be lawful to issue any form of application for shares in or debentures of a company unless the form is issued with a prospectus which complies with the requirements of this section:

Provided that this subsection shall not apply if it is shown that the form of application was issued either:-

- (a) in connection with a bona fide invitation to a person to enter into an underwriting agreement with respect to the shares or debentures; or
- (b) in relation to shares or debentures which were not offered to the public.

If any person acts in contravention of the provisions of this subsection, he shall be liable to a fine.

(4) In the event of non-compliance with or contravention of any of the requirements of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance or contravention, if:-

- (a) as regards any matter not disclosed, he proves that he was not cognizant thereof; or
- (b) he proves that the non-compliance or contravention arose from an honest mistake of fact on his part; or
- (c) the non-compliance or contravention was in respect of matters which in the opinion of the court dealing with the case were immaterial or was otherwise such as ought, in the opinion of that court, having regard to all the circumstances of the case, reasonably to be excused;

Provided that, in the event of failure to include in a prospectus a statement with respect to the matters specified in the regulations, no director or other person shall incur any liability in respect of the failure unless it be proved that he had knowledge of the matters not disclosed.

(5) This section shall not apply to the issue to existing members or debenture holders of a company of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant for shares or debentures will or will not have the right to renounce in favour of other persons, but, subject as aforesaid, this section shall apply to a prospectus or a form of application whether issued on or with reference to the formation of a company or subsequently.

(6) Nothing in this section shall limit or diminish any liability which any

person may incur under the general law or this Act apart from this section.

48.(1) A prospectus inviting persons to subscribe for shares in or debentures of a company and including a statement purporting to be made by an expert shall not be issued unless:-

- (a) he has given and has not, before delivery of a copy of the prospectus for registration, withdrawn his written consent to the issue thereof with the statement included in the form and context in which it is included; and
- (b) a statement that he has given and has not withdrawn his consent as aforesaid appears in the prospectus.

(2) If any prospectus is issued in contravention of this section the company and every person who is knowingly a party to the issue thereof shall be liable to a fine.

(3) In this section the expression "expert" includes engineer, valuer, accountant and any other person whose profession gives authority to a statement made by him.

49.(1) No prospectus shall be issued by or on behalf of a company or in relation to an intended company unless on or before the date of its publication, there has been delivered to the Registrar for registration a copy thereof signed by every person who is named therein as a director or proposed director of the company. or by his agent authorised in writing, and having indorsed thereon or attached thereto:-

- (a) any consent to the issue of the prospectus required by section 48 from any person as an expert; and
- (b) In case of a prospectus issued generally, also:-
 - (i) A copy of any contract required by regulations made under the Act, to be stated in the prospectus or, in the case of a contract not reduced into writing, a memorandum giving full particulars thereof; and
 - (ii) Where the persons making any report required by regulations made under the Act, have made therein, or have, without giving the reasons, indicated therein, any such adjustments as are mentioned in the regulations, a written statement signed by those persons setting out the adjustments and giving the reasons therefor.

The references in sub-paragraph (i) of paragraph (b) of this subsection to the copy of a contract required thereby to be indorsed on or attached to a copy of the prospectus shall, in the case of a contract wholly or partly in a foreign language, be taken as references to a copy of translation of the contract in English or Kiswahili a copy embodying a translation in English or Kiswahili of

the parts in a foreign language, as the case may be, being a translation certified in the prescribed manner to be a correct translation, and the reference to a copy of a contract required to be available for inspection shall include a reference to a copy of a translation thereof or a copy embodying a translation of parts thereof.

(2) Every prospectus shall, on the face of it:-

- (a) state that a copy has been delivered for registration as required by this section; and
- (b) specify, or refer to statements included in the prospectus which specify, and documents required by this section to be indorsed on or attached to the copy so delivered

(3) The Registrar shall not register a prospectus unless it is dated and the copy thereof signed in manner required by this section and unless it has indorsed thereon or attached thereto the documents (if any) specified as aforesaid.

(4) If a prospectus is issued without a copy thereof being delivered under this section to the Registrar or without the copy so delivered having indorsed thereon or attached thereto the required documents, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine for every day from the date of the issue of the prospectus until a copy thereof is so delivered with the required documents indorsed thereon or attached thereto.

50.(1) A company limited by shares or limited by guarantee and having a share capital shall not previously to the statutory meeting vary the terms of a contract referred to in the prospectus, or statement in lieu of prospectus, except subject to the approval of the statutory meeting.

(2) This section shall not apply to a private company.

51.(1) Subject to the provisions of this section, where a prospectus invites persons to subscribe for shares in or debentures of a company, the following persons shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for the loss or damage they may have sustained by reason of any untrue statement included therein, that is to say;

- (a) every person who is a director of the company at the time of the issue of the prospectus;
- (b) every person who has authorised himself to be named and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time;
- (c) every person being a promoter of the company; and
- (d) every person who has authorised the issue of the prospectus;

Provided that where, under section 48 the consent of a person is required to the issue of a prospectus and he has given that consent, he shall not by reason of his having given it be liable under this subsection as a person who has authorised the issue of the prospectus except in respect of an untrue statement purporting to be made by him as an expert.

(2) No person shall be liable under subsection (1) if he proves:-

- (a) that, having consented to become a director of the company, he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or
- (b) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was without his knowledge or consent; or
- (c) that, after the issue of the prospectus and before allotment thereunder, he, on becoming aware of any untrue statement therein, withdrew his consent thereto and gave reasonable public notice of the withdrawal and of the reason therefore; or
- (d) that:-
 - (i) as regards every untrue statement not purporting to be made on the authority of an expert or of a public official document or statement, he had reasonable ground to believe, and did up to the time of the allotment of the shares or debentures, as the case may be, believe, that the statement was true, and
 - (ii) as regards every untrue statement purporting to be a statement by an expert or contained in what purports to be a copy of or extract from a report or valuation of an expert, it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation, and he had reasonable ground to believe and did up to the time of the issue of the prospectus believe that the person making the statement was competent to make it and that person had given the consent required by section 48 to the issue of the prospectus and had not withdrawn that consent before delivery of a copy of the prospectus for registration or, to the defendant's knowledge, before allotment thereunder; and
 - (iii) as regards every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official

document, it was a correct and fair representation of the statement or copy of or extract from the document.

Provided that this subsection shall not apply in the case of a person liable, by reason of his having given the consent required of him by the said section 48, as a person who had authorised the issue of the prospectus in respect of an untrue statement purporting to be made by him as an expert.

(3) A person who, apart from this subsection would under subsection (1) be liable, by reason of his having given a consent required of him by section 48, as a person who has authorised the issue of a prospectus in respect of an untrue statement purporting to be made by him as an expert shall not be so liable if he proves:-

- (a) that, having given his consent under the said section 48 to the issue of the prospectus, he withdrew it in writing before delivery of a copy of the prospectus for registration; or
- (b) that, after delivery of a copy of the prospectus for registration and before allotment thereunder, he, on becoming aware of the untrue statement, withdrew his consent in writing and gave reasonable public notice of the withdrawal and of the reason therefore; or
- (c) that he was competent to make the statement and that he had reasonable ground to believe and did up to the time of the allotment of the shares or debentures, as the case may be, believe that the statement was true.

(4) Where:-

- (a) the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorised or consented to the issue thereof; or
- (b) the consent of a person is required under section 48 to the issue of the prospectus and he either has not given that consent or has withdrawn it before the issue of the prospectus; the directors of the company, except any without whose knowledge or consent the prospectus was issued, and any other person who authorised the issue thereof shall be liable to indemnify the person named as aforesaid or whose consent was required as aforesaid as the case may be, against all damages, costs and expenses to which he may be made liable by reason of his name having been inserted in the prospectus or of the inclusion therein of a statement purporting to be made by him as an expert, as the case may be, or in defending himself against any

action or legal proceeding brought against him in respect thereof:

Provided that a person shall not be deemed for the purposes of this subsection to have authorised the issue of a prospectus by reason only of his having given the consent required by section 48 to the inclusion therein of a statement purporting to be made by him as an expert.

(5) For the purposes of this section:-

(a) the expression "promoter" means a promoter who was a party to the preparation of the prospectus, or of the portion thereof containing the untrue statement, but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company; and

(b) the expression "expert" has the same meaning as in section 48.

52.(1) Where a prospectus includes any untrue statement, any person who authorized the issue of the prospectus shall be liable on conviction to imprisonment for a term not less than three months and not exceeding two years, or a fine not exceeding one million shillings, or both, unless he proves either that the statement was immaterial or that he had reasonable ground to believe and did, up to the time of the issue of the prospectus, believe that the statement was true.

(2) A person shall not be deemed for the purposes of this section to have authorised the issue of a prospectus by reason only of his having given the consent required by section 48 to the inclusion therein of a statement purporting to be made by him as an expert.

53.(1) Where a company allots or agrees to allot any shares in or debentures of the company with a view to all or any of those shares or debentures being offered for sale to the public, any document by which the offer for sale to the public is made shall for all purposes be deemed to be a prospectus issued by the company.

(2) All enactments and rules of law as to the contents of prospectuses and to liability in respect of statements in and omissions from prospectuses, or otherwise relating to prospectuses, shall apply and have effect accordingly, as if the shares or debentures had been offered to the public for subscription and as if persons accepting the offer in respect of any shares or debentures had been offered to the public for subscription and as if persons accepting the offer in respect of any shares or debentures were subscribers for those shares or debentures, but without prejudice to the liability, if any, of the persons by whom the offer is made in respect of misstatements contained in the document or otherwise in respect thereof.

(3) For the purposes of this Act, it shall, unless the contrary is proved, be evidence that an allotment of, or an agreement to allot, shares or debentures was

made with a view to the shares or debentures being offered for sale to the public if it is shown:-

- (a) that an offer of the shares or debentures or of any of them for sale to the public was made within six months after the allotment or agreement to allot; or
- (b) that at the date when the offer was made the whole consideration to be received by the company in respect of the shares or debentures had not been so received.

(4) Section 47 as applied by this section shall have effect as if it required a prospectus to state in addition to the matters required by that section to be stated in a prospectus:-

- (a) the net amount of the consideration received or to be received by the company in respect of the shares or debentures to which the offer relates; and
 - (b) the place and time at which the contract under which the said shares or debentures have been or are to be allotted may be inspected;
- and section 49 as applied by this section shall have effect as though the persons making the offer were persons named in a prospectus as directors of a company.

(5) Where a person making an offer to which this section relates is a company or a firm, it shall be sufficient if the document aforesaid is signed on behalf of the company or firm by two directors of the company or not less than half of the partners, as the case may be, and any such director or partner may sign by his agent authorised in writing.

54. For the purposes of the foregoing provisions of this Part:-

- (a) a statement included in a prospectus shall be deemed to be untrue if it is misleading in the form and context in which it is included; and
- (b) a statement shall be deemed to be included in a prospectus if it is contained therein or in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

55.(1) No allotment shall be made of any share capital of a company offered to the public for subscription unless the amount stated in the prospectus as the minimum amount which, in the opinion of the directors, must be raised by the issue of share capital in order to provide for the matters specified in the Regulations made under this Act has been subscribed, and the sum payable on application for the amount so stated has been paid to and received by the

company.

For the purposes of this subsection a sum shall be deemed to have been paid to and received by the company if a cheque for that sum has been received in good faith by the company and the directors of the company have no reason for suspecting that the cheque will not be paid.

(2) The amount so stated in the prospectus shall be reckoned exclusively of any amount payable otherwise than in cash and is in this Act referred to as "the minimum subscription".

(3) The amount payable on application on each share shall not be less than five per centum of the nominal amount of the share.

(4) If the conditions aforesaid have not been complied with on the expiration of one hundred and twenty days after the first issue of the prospectus, all money received from applicants for shares shall be forthwith repaid to them without interest, and, if any 'such money is not so repaid within one hundred and thirty days after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of five per centum per annum from the expiration of the one hundred and thirty days:'

Provided that a director shall not be liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

(5) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

(6) This section, except subsection (3) thereof, shall not apply to any allotment of share subsequent to the first allotment of shares offered to the public for subscription.

56.(1) A company having a share capital which does not issue a prospectus on or with reference to its formation, or which has issued such a prospectus but has not proceeded to allot any of the shares offered to the public for subscription, shall not allot any of its shares or debentures unless at least three days before the first allotment of either shares or debentures there has been delivered to the Registrar for registration a statement in lieu of prospectus signed by every person who is named therein as a director or a proposed director of the company or by his agent authorized in writing, in the form and containing the particulars set out in the Regulations made under this Act, setting out the reports specified therein.

(2) Every statement in lieu of prospectus delivered under the foregoing subsection shall, where the persons making any such report as aforesaid have made therein or have, without giving the reasons, indicated therein any such adjustments as are mentioned in regulations of this Act, have indorsed thereon

or attached thereto a written statement signed by those persons setting out the adjustments and giving the reasons therefor.

(3) This section shall not apply to a private company.

(4) If a company acts in contravention of subsection (1) or (2), the company and every director of the company who knowingly and wilfully authorises or permits the contravention shall be liable to a fine.

(5) Where a statement in lieu of prospectus delivered to the Registrar under subsection (1) of this section includes any untrue statement any person who authorised the delivery of the statement in lieu of prospectus for registration shall be liable on conviction to imprisonment for a term not exceeding two years, or a fine not exceeding one million, or both, unless he proves either that the untrue statement was immaterial or that he had reasonable ground to believe and did up to the time of the delivery for registration of the statement in lieu of prospectus believe that the untrue statement was true.

(a) a statement included in a statement in lieu of prospectus shall be deemed to be untrue if it is misleading in the form and context in which it is included; and

(b) a statement shall be deemed to be included in a statement in lieu of prospectus if it is contained therein or in any report or memorandum appearing on the face thereof or by reference incorporated therein.

57.(1) An allotment made by a company to an applicant in contravention of the provisions of sections 55 and 56 shall be voidable at the instance of the applicant within one month after the holding of the statutory meeting of the company and not later, or, in any case where the company is not required to hold a statutory meeting, or where the allotment is made after the holding of the statutory meeting, within one month after the date of the allotment, and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.

(2) If any director of a company knowingly contravenes, or permits or authorises the contravention of, any of the provisions of the said sections with respect to allotment, he shall be liable to compensate the company and the allottee respectively for any loss, damages or costs which the company or the allottee may have sustained or incurred thereby.

Provided that proceedings to recover any such loss, damages, or costs shall not be commenced after the expiration of two years from the date of the allotment.

58.(1) No allotment shall be made of any shares in or debentures of a company in pursuance of a prospectus issued generally and no proceedings shall be taken on application made in pursuance of a prospectus so issued, until the beginning of the third day after that on which the prospectus is first so

issued or such later time (if any) as may be specified in the prospectus.

Provided that the beginning of the said third day or such later time as aforesaid is hereafter in this Act referred to as "the time of the opening of the subscription lists".

(2) In subsection (1), the reference to the day on which the prospectus is first issued generally shall be construed as referring to the day on which it is first so issued as a newspaper advertisement.

Provided that, if it is not so issued as a newspaper advertisement before the third day after that on which it is first so issued in any other manner, the said reference shall be construed as referring to the day on which it is first so issued in any manner.

(3) The validity of an allotment shall not be affected by any contravention of the foregoing provisions of this section but, in the event of any such contravention, the company and every officer of the company who is in default shall be liable to a fine.

(4) In the application of this section to a prospectus offering shares or debentures for sale, the foregoing subsections shall have effect with the substitution of references to sale for references to allotment, and with the substitution for the reference to the company and every officer of the company who is in default of a reference to any person by or through whom the offer is made and who knowingly and wilfully authorises or permits the contravention.

(5) An application for shares in or debentures of a company which is made in pursuance of a prospectus issued generally shall not be revocable until after the expiration of the third day after the time of the opening of the subscription lists, or the giving before the expiration of the said third day, by some person responsible under section 51 for the prospectus, of a public notice having the effect under that section of excluding or limiting the responsibility of the person giving it.

(6) In reckoning for the purposes of this section and section 59 the third day after another day, any intervening day which is a Saturday or Sunday or which is a public or bank holiday shall be disregarded, and if the third day (as so reckoned) is itself a Saturday or Sunday or such a public or bank holiday there shall for the said purposes be substituted the first day thereafter which is none of them.

59.(1) Where a prospectus, whether issued generally or not, states that application has been or will be made for permission for the shares or debentures offered thereby to be dealt in on any stock exchange, any allotment made on an application in pursuance of the prospectus shall, whenever made, be void if the permission has not been applied for before the third day after the first issue of the prospectus or if the permission has been refused before the expiration of three weeks from the date of the closing of the subscription lists or such longer

period not exceeding six weeks as may, within the said three weeks, be notified to the applicant for permission by or on behalf of the stock exchange.

(2) Where the permission has not been applied for as aforesaid, or has been refused as aforesaid, the company shall forthwith repay without interest all money received from applicants in pursuance of the prospectus, and, if any such money is not repaid within eight days after the company becomes liable to repay it, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of five per centum per annum from the expiration of the eighth day;

Provided that a director shall not be liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

(3) All money received as aforesaid shall be kept in a separate bank account so long as the company may become liable to repay it under subsection (2), and, if default is made in complying with this subsection, the company and every officer of the company who is in default shall be liable to a fine.

(4) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section shall be void.

(5) For the purposes of this section, permission shall not be deemed to be refused if it is intimated that the application for it, though not at present granted, will be given further consideration.

(6) This section shall have effect:-

(a) in relation to any shares or debentures agreed to be taken by a person underwriting an offer thereof by a prospectus as if he had applied therefore in pursuance of the prospectus; and

(b) in relation to a prospectus offering shares for sale with the following modifications, that is to say:-

(i) references to sale shall be substituted for references to allotment;

(ii) the persons by whom the offer is made, and not the company, shall be liable under subsection (2) to repay money received from applicants, and references to the company's liability under that subsection shall be construed accordingly; and

(iii) for the reference in subsection (3) to the company and every officer of the company who is in default there shall be substituted a reference to any person by or through

whom the offer is made and who is knowingly and wilfully authorises or permits the default.

60.(1) Whenever a company limited by shares or a company return as limited by guarantee and having a share capital makes any allotment of its shares, the company shall within sixty days thereafter deliver to the Registrar for registration:-

- (a) a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, addresses and description of the allottees, and the amount, if any, paid or due and payable on each share; and
- (b) in the case of shares allotted as fully or partly paid up otherwise than in cash, a contract in writing constituting the title of the allottee to the allotment together with any contract of sale, or for services or other consideration in respect of which that allotment was made, such contracts being duly stamped, and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

(2) Where such a contract as above mentioned is not reduced to writing, the company shall within sixty days after the allotment deliver to the Registrar for registration the prescribed particulars of the contract stamped with the same stamp duty as would have been payable if the contract had been reduced to writing, and those particulars shall be deemed to be an instrument within the meaning of the Stamp Duty Act, and the Registrar may, as a condition of filing the particulars, require that the duty payable thereon be adjudicated under section 36 of that Act.

(3) If default is made in complying with this section, every officer of the company who is in default shall be liable to a fine for every day during which the default continues:

Provided that, in case of default in delivering to the Registrar within sixty days after the allotment any document required to be delivered by this section, the company, or any officer liable for the default, may apply to the court for relief, and the court, if satisfied that the omission to deliver the document was accidental or due to inadvertence or that it is just and equitable to grant relief, may make an order extending the time for the delivery of the document for such period as the court may think proper.

Commissions and Discounts

61.(1) It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company if:-

- (a) the payment of the commission is authorised by the articles; and
- (b) the commission paid or agreed to be paid does not exceed ten per centum of the price at which the shares are issued or the amount or rate authorised by the articles, whichever is the less; and
- (c) the amount or rate per centum of the commission paid or agreed to be paid is:-
 - (i) in the case of shares offered to the public for subscription,
 - (ii) disclosed in the prospectus; or
 - (iii) in the case of shares not offered to the public for subscription, disclosed in the statement in lieu of prospectus, or in a statement in the prescribed form signed in like manner as a statement in lieu of prospectus and delivered before the payment of the commission to the Registrar for registration, and, where a circular or notice, not being a prospectus, inviting subscription for the shares is issued, also disclosed in that circular or notice; and
- (d) the number of shares which persons have agreed for a commission to subscribe absolutely is disclosed in manner aforesaid.

(2) Save as aforesaid, no company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount or allowance to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, whether the shares or money be so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or the money be paid out of the nominal purchase money or contract price, or otherwise.

(3) A vendor to, promoter of, or other person who receives payment in money or shares from, a company shall have and shall be deemed always to have had power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been legal under this section.

(4) If default is made in complying with the provisions of this section relating to the delivery to the Registrar of the statement in the prescribed form, the company and every officer of the company who is in default shall be liable to a fine.

62.(1) Subject as provided in this section, it shall not be lawful for a

company to give, whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security or otherwise any financial assistance for the purpose of or in connection with a purchase or subscription made or to be made by any person of or for any shares in the company, or, where the company is a subsidiary company, in its holding company:

Provided that nothing in this section shall be taken to prohibit:-

- (a) where the lending of money is part of the ordinary business of a company. the lending of money by the company in the ordinary course of its business;
- (b) the provision by a company, in accordance with any scheme for the time being in force, of money for the purchase of, or subscription for, fully-paid shares in the company or its holding company, being a purchase or subscription by trustees of or for shares to be held by or for the benefit of employees of the company. including any director holding a salaried employment or office in the company;
- (c) the making by a company of loans to persons, other than directors, bona fide in the employment of the company with a view to enabling those persons to purchase or subscribe for fully paid shares in the company or its holding company to be held by themselves by way of beneficial ownership.

(2) If a company acts in contravention of this section, the company and every officer of the company who is in default shall be liable to a fine.

Construction of References to offering Shares or Debentures to the Public Shares

63.(1) Any reference in this Act to offering shares or debentures to the public shall, subject to any provision to the contrary contained therein, be construed as including a reference to offering them to any section of the public, whether selected as members or debenture holders of the company concerned or as clients of the person issuing the prospectus or in any other manner, and references in this Act or in a company's articles to invitations to the public to subscribe for shares or debentures shall, subject as aforesaid, be similarly construed.

(2) Subsection (1) shall not be taken as requiring any offer or invitation to be treated as made to the public if it can properly be regarded, in all the circumstances, as not being calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the offer or invitation, or otherwise as being a domestic concern of the persons making and receiving it, and in particular:-

- (a) a provision in a company's articles prohibiting invitations to the public to subscribe for shares or debentures shall not be taken as prohibiting the making to members or debenture holders of an invitation which can properly be regarded as aforesaid; and
- (b) the provisions of this Act relating to private companies shall be construed accordingly.
Issue of Shares at Premium and Discount and Redeemable Preference Shares

64.(1) Where a company issues shares at a premium, whether for cash or otherwise, a sum equal to the aggregate amount or value of the premiums on those shares shall be transferred to an account, to be called "the share premium account", and the provisions of this Act relating to the reduction of the share capital of a company shall, except as provided in this section, apply as if the share premium account were paid up share capital of the company.

(2) The share premium account may, notwithstanding anything in subsection (1), be applied by the company in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares, in writing off:-

- (a) the preliminary expenses of the company; or
- (b) the expenses of, or the commission paid or discount allowed on, any issue of shares or debentures of the company; or
- (c) in providing for the premium payable on redemption of any redeemable preference shares or of any debentures of the company.

65.(1) Save as provided in this section, it shall be lawful for a company to issue at a discount shares in the company of a class already issued.

Provided that:-

- (a) the issue of the shares at a discount shall be authorized by resolution passed in general meeting of the company, and shall be sanctioned by the court;
- (b) the resolution shall specify the maximum rate of discount at which the shares are to be issued;
- (c) not less than one year shall at the date of the issue have elapsed since the date on which the company was entitled to commence business;
- (d) the shares to be issued at a discount shall be issued within one month after the date on which the issue is sanctioned by the court or within such extended time as the court may allow.

(2) Where a company has passed a resolution authorising the issue of shares at a discount, it may apply to the court for an order sanctioning the issue, and on any such application the court, if having regard to all the circumstances of the case it thinks proper so to do, may make an order sanctioning the issue on such terms and conditions as it thinks fit.

(3) Every prospectus relating to the issue of the shares shall contain particulars of the discount allowed on the issue of the shares or of so much of that discount as has not been written off at the date of the issue of the prospectus.

If default is made in complying with this subsection, the company and every officer of the company who is in default shall be liable to a default fine.

66.(1) Subject to the provisions of this section, a company limited by shares may, if so authorised by its articles, issue preference shares which are, or at the option of the company are to be liable, to be redeemed.

Provided that:-

- (a) such shares shall be redeemed except out of profits of the company which would otherwise be available for dividend or out of the proceeds of a fresh issue of shares made for the purposes of the redemption;
- (b) no such shares shall be redeemed unless they are fully paid;
- (c) the premium, if any, payable on redemption, shall be provided for out of the profits of the company or out of the company's share premium account before the shares are redeemed;
- (d) where any such shares are redeemed otherwise than out of the proceeds of a fresh issue, there shall out of profits which would otherwise have been available for dividend be transferred to a reserve fund, to be called "the capital redemption reserve fund", a sum equal to the nominal amount of the shares redeemed, and the provisions of this Act relating to the reduction of the share capital of a company shall, except as provided in this section apply as if the capital redemption reserve fund were paid-up share capital of the company.

(2) Subject to the provisions of this section, the redemption of preference shares thereunder may be effected on such terms and in such manner as may be provided by the articles of the company.

(3) The redemption of preference shares under this section by a company shall not be taken as reducing the amount of the company's authorised share capital.

(4) Where in pursuance of this section a company has redeemed or is

about to redeem any preference shares, it shall have power to issue shares up to the nominal amount of the shares redeemed or to be redeemed as if those shares had never been issued, and accordingly the share capital of the company shall not for the purposes of any enactments relating to stamp duty be deemed to be increased by the issue of shares in pursuance of this subsection.

Provided that, where new shares are issued before the redemption of the old shares, the new shares shall not, so far as relates to stamp duty, be deemed to have been issued in pursuance of this subsection unless the old shares are redeemed within one month after the issue of the new shares.

(5) The capital redemption reserve fund may, notwithstanding anything in this section, be applied by the company in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares.

Miscellaneous Provisions as to Share Capital

67. A company, if so authorised by its articles, may do any or more of the following things:-

- (a) make arrangements on the issue of shares for a difference between the shareholders in the amount and times of payment of calls on their shares;
- (b) accept from any member the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up;
- (c) pay dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

68. A limited company may by special resolution determine that any portion of its share capital which has not been already called up shall not be capable of being called up except in the event and for the purposes of the company's being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid.

69.(1) A company limited by shares or a company limited by guarantee and having a share capital, if so authorised by its articles, may alter the conditions of its memorandum as follows, that is to say, it may:-

- (a) increase its share capital by new shares of such amount as it thinks expedient;
- (b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
- (c) convert all or any of its paid-up shares into stock, and reconvert that stock into paid-up shares of any denomination;

(d) sub-divide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the subdivision the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived;

(e) cancel shares which, at the date of passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The powers conferred by this section shall be exercised by the company in general meeting.

(3) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Act.

(4) Notwithstanding the provisions of this section, the Minister responsible for finance may appoint a competent authority to assess and review, at any time, the capital of the company and propose the increase of share capital if necessary.

70.(1) If a company having a share capital has:-

- (a) consolidated and divided its share capital into shares of larger amount than its existing shares; or
- (b) converted any shares into stock; or
- (c) re-converted stock into shares; or
- (d) sub-divided its shares or any of them; or
- (e) redeemed any redeemable preference shares; or
- (f) cancelled any shares, otherwise than in connection with a reduction of share capital under section 74;

it shall within one month after so doing give notice thereof to the Registrar specifying, as the case may be, the shares consolidated, divided, converted, sub-divided, redeemed or cancelled, or the stock re-converted.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

71.(1) Where a company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, it shall, within fifteen days after the passing of the resolution authorising the increase, give to the Registrar notice of the increase, and the

Registrar shall record the increase.

(2) The notice to be given as aforesaid shall include such particulars as may be prescribed with respect to the classes of shares affected and the conditions subject to which the new shares have been or are to be issued, and there shall be forwarded to the Registrar together with the notice a printed copy of the resolution authorising the increase.

(3) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

72. An unlimited company having a share capital may, by its resolution for registration as a limited company in pursuance of this Act, do either or both of the following things namely:-

- (a) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, but subject to the condition that no part of the increased capital shall be capable of being called up except in the event and for the purposes of the company's being wound up;
- (b) provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company's being wound up.

73. Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a long period, the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the sum so paid by way of interest to capital as part of the cost of construction of the work or building, or the provision of plant.

Provided that:-

- (a) no such payment shall be made unless it is authorised by the articles or by special resolution;
- (b) no such payment, whether authorised by the articles or by special resolution, shall be made without the previous sanction of the Registrar which sanction shall be conclusive evidence for the purposes of this section that the shares of the company in respect of which such sanction is given have been issued for a purpose specified in this section;
- (c) before sanctioning any such payment the Registrar may, at the expense of the company, appoint a person to inquire and report to him as to the circumstances of the case, and may, before making

the appointment, require the company to give security for the payment of the costs of the inquiry;

- (d) the payment shall be made only for such period as may be determined by the Registrar and that period shall in no case extend beyond the close of the half year next after the half year during which the works or buildings have been actually completed or the plant provided;
- (e) the rate of interest shall in no case exceed four per centum per annum or such other rate as the Registrar may for the time being by notice in the Gazette prescribe;
- (f) the payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid.

74.(1) A company limited by shares or a company limited by guarantee and having a share capital may, if so authorised by its articles and as provided herein, by special resolution reduce its share capital in any way, and in particular, may:-

- (a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up; or
- (b) either with or without extinguishing or reducing liability on any of its shares, cancel any paid up share capital which is lost or unrepresented by available assets; or
- (c) either with or without extinguishing or reducing liability on any of its shares, pay off any paid up share capital which is in excess of the requirements of the company, and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

(2) The notice given of the intention to propose the special resolution to reduce the company's share capital shall be accompanied by a directors' certificate of solvency given in accordance with section 75 and, where appropriate, the auditors' report thereon.

(3) Subject to section 76, a special resolution passed reducing the share capital of a company shall not take effect until after the resolution has been filed with the Registrar and the resolution shall not, in any event, be filed with the Registrar until thirty five days from the date that it was passed.

(4) A special resolution reducing the share capital of a company shall be advertised in the Official Gazette and, in the case of a public company, the national newspaper, in each case within five working days of the resolution having been passed, if the company fails to comply with this subsection, the directors shall be liable to a fine.

75.(1) Where it is proposed to pass a resolution reducing the share capital of a company, the directors of a majority of them shall certify that they have made a full inquiry into the affairs of the company, and that, having so done, they have formed the opinion that the company will be able to pay its debts in full within twelve months from the date of the certificate or, if the company is wound up within that period, the date of the commencement of the winding up.

(2) The directors' certificate shall be accompanied by a report from the auditors to the effect that they have enquired into the state of the company's affairs and are not aware of anything to indicate that the directors' certificate of solvency is unreasonable.

(3) Any director of a company giving a certificate under this section without having reasonable grounds for his opinion shall be liable to imprisonment of a term not exceeding six months or to a fine not exceeding three hundred thousand, or to both; and if the company is wound up in pursuance of a resolution passed within the period of twelve months after the giving of the certificate, but its debts are not paid or provided for in full within the period stated in the certificate, it shall be presumed unless the contrary is shown that the director did not have reasonable grounds for his opinion.

76.(1) In the case of a reduction in the share capital of the company other than for the purpose specified in section 74(1) (b), any creditor of the company may apply to the court to object to the proposed reduction on the grounds that his position as creditor would be materially prejudiced by the reduction.

(2) An application under this section shall be made:-

- (a) within twenty eight days of the advertisement of the special resolution in the Official Gazette or, where appropriate, national newspaper; or
- (b) in the case of a failure to advertise the special resolution as required by section 74(4), within such further period as the court may think just.

(3) On an application under this section the court may make an order prohibiting the reduction or conforming the reduction either wholly or in part and on such terms and conditions as it thinks fit.

(4) An alteration in the memorandum of a company made by virtue of an order under this section is of the same effect as if duly made by resolution, and this Act shall apply accordingly to the memorandum so altered.

77.(1) In the case of a reduction in capital that is not effected in accordance with sections 74, 75 and 76, including the case where a certificate is given by directors under section 75 where the directors did not have reasonable grounds to believe in its truth, any creditor of the company that would have been entitled to object to the proposed reduction under section 76 may apply to the court to

object to the reduction on the grounds that his position as creditor has been materially prejudiced by the reduction.

(2) On an application under this section the court may make such order as it thinks fit, including an order that every member of the company at the date of the passing of the special resolution reducing the share capital having knowledge of the failure to company with section 75, 75 and 76 and, where appropriate, every director giving a directors' certificate under section 75 shall be liable to:-

- (a) contribute to the payment of the debt or claim of the creditor, save that in the case of a member this shall be in an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before the date of the passing of the special resolution; or
- (b) contribute to the repayment of the sum by which the share capital of the company was reduced as a result of the passing of the special resolution.

(3) Nothing in this section shall affect the rights of the contributories among themselves.

78.(1) If, in the case of a company the share capital of which is divided into different classes of shares, provision is made by the memorandum or articles for authorizing the variation of the rights attached to any class of shares in the company, subject to the consent of any specified proportion of the holders of the issued shares of that class of the sanction of a resolution passed at a separate meeting of the holders of those shares, and in pursuance of the said provision the rights attached to any such class of shares are at any time varied, the holders of not less in the aggregate than fifteen per centum of the issued shares of that class, being persons who did not consent to or vote in favour of the resolution for the variation, may apply to the court to have the variation cancelled, and , where any such application is made, the variation shall not have effect unless and until it is confirmed by the court.

(2) An application under this section shall be made within twenty one days after the date on which the consent was given or the resolution was passed, as the case may be, and may be made on behalf of the share-holders entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(3) On any such application the court, after hearing the applicant and any other persons who apply to the court to be heard and appear to the court to be interested in the application, may, if it is satisfied, having regard to all the circumstances of the case, that the variation would unfairly, prejudice the shareholders of the class represented by the applicant, disallow the variation and shall, if not so satisfied, confirm the variation.

(4) The decision of the court on any such application shall be final.

(5) The company shall within fifteen days after the making of an order by the court on any such application forward a certified copy of the order to the Registrar, and, if default is made in complying with this provision, the company and every officer of the company who is in default shall be liable to a default fine.

(6) The expression "variation" in this section includes abrogation and the expression "varied" shall be construed accordingly.

79. The shares or other interest of any member in a company shall be movable property, transferable in manner provided by the articles of the company.

80.(1) An approved stock exchange may establish a depository in which issued securities may be maintained provided that the Authority or other ruling body of such exchange shall prescribe rules relating to safe custody, transfer and reports to be filed with the Registrar relating to transactions concerning the deposited securities.

(2) The rules prescribed under subsection (1) shall be satisfactory to the Registrar.

(3) Transfer of securities deposited in a depository maintained by an approved stock exchange shall be effected.

81. Each share in a company having a share capital shall be distinguished by its appropriate number.

Provided that, if at any time all the issued shares in a company, or all the issued shares therein of a particular class, are fully paid up and rank pari passu for all purposes, none of those shares need thereafter have a distinguishing number so long as it remains fully paid up and ranks pari passu for all purposes with all shares of the same class for the time being issued and fully paid up.

82. Notwithstanding anything in the articles of a company, it shall not be lawful for the company to register a transfer of shares in or debentures of the company unless a proper instrument of transfer has been delivered on to the company:

Provided that nothing in this section shall prejudice any power of transfer the company to register as shareholder or debenture holder any person to whom the right to any shares in or debentures of the company has been transmitted by operation of law.

83. A transfer of the share or other interest of a deceased member of a

company made by his legal representative shall, although the legal representative is not himself a member of the company, be as valid as if he had been such a member at the time of the execution of the instrument of transfer.

84. On the application of the transferor or any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee.

85.(1) If a company refuses to register a transfer of any shares or debentures, the company shall, within two months after the date on which the transfer was lodged with the company, send to the transferee notice of the refusal.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

86.(1) The certification by a company of any instrument of transfer of shares in or debentures of the company shall be taken as a representation by the company to any person acting on the faith of the certification that there have been produced to the company such documents as on the face of them show a prima facie title to the shares or debentures in the transferor named in the instrument of transfer, but not as a representation that the transferor has any title to the shares or debentures.

(2) Where any person acts on the faith of a false certification by a company made negligently, the company shall be under the same liability to him as if the certification had been made fraudulently.

(3) For the purposes of this section:-

- (a) an instrument of transfer shall be deemed to be certificated if it bears the words "certificate lodged" or words to the like effect;
- (b) the certification of an instrument of transfer shall be deemed to be made by a company if:-
 - (i) the person issuing the instrument is a person authorised to issue certificated instruments of transfer on the company's behalf; and
 - (ii) the certification is signed by a person authorised to certificate transfers on the company's behalf or by any officer or servant either of the company or of a body corporate so authorised;
- (c) a certification shall be deemed to be signed by any person if:-
 - (i) it purports to be authenticated by his signature or initials (whether hand written or not); and

(ii) it is not shown that the signature or initials was or were placed there neither by himself nor by any person authorised to use the signature or initials for the purpose of certificating transfers on the company's behalf.

87.(1) Every company shall, within three months after the allotment of any of its shares, debenture or debenture stock and within three months after the date on which a transfer of any such shares, debentures or debenture stock is lodged with the company, complete and have ready for delivery the certificates of all shares, the debentures and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debenture or debenture stock otherwise provide.

For the purpose of this subsection "transfer" means a transfer duly stamped and otherwise valid, and does not include such a transfer as the company as for any reason entitled to refuse to register and does not register.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

(3) If any company on whom notice has been served requiring the company to make good any default in complying with the provisions of subsection (1) fails to make good the default within ten days after the service of notice, the court may, on the application of the person entitled to have the certificates or the debentures delivered to him, make an order directing the company and any officer of the company to make good the default within such time as may be specified in the order, and any such order may provide that all costs of and incidental to the application shall be borne by the company or by any officer of the company responsible for the default.

88. A certificate, under the common seal of the company, specifying any shares held by any member, shall be prima facie evidence of the title of the member to the shares.

89. The production to a company of any document which is by law sufficient evidence that:-

(a) probate of the will, or letters of administration of the estate, of a deceased person has or have been granted to some person; or

(b) the administrator of estate has undertaken the administration of an estate under the provisions of relevant laws for the administration of estate.

shall be accepted by the company, notwithstanding anything in its articles, as sufficient evidence of such grant or undertaking

90.(1) A company limited by shares, if so authorized by its articles, may, with respect to any fully paid-up shares, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the shares therein specified,

and may provide, by coupons or otherwise, for the payment of the future dividends the shares include in the warrant.

(2) Such a warrant as aforesaid is in this Act termed a "share warrant".

(3) A share warrant shall entitle the bearer thereof to the shares therein specified, and the shares may be transferred by delivery of the warrant.

91. If any person falsely and deceitfully personates any owner of any share or interest in any company, or of any share warrant or coupon, issued in pursuance of this Act, and thereby obtains or endeavours to obtain any such share or interest or share warrant or coupon, or receives or endeavours to receive any money due to any such owner, as if the offender were the true and lawful owner, commits an offence, and shall on conviction be liable to imprisonment for any term not exceeding seven years.

92.(1) If any person:-

- (a) with intent to defraud, forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any share warrant or coupon, or any document purporting to be a share warrant or coupon, issued in pursuance of this Act; or
- (b) by means of any such forged or altered share warrant, coupon, or document, purporting as aforesaid, demands or endeavours to obtain or receive any share or interest in any company under this Act, or to receive any dividend or money payable in respect thereof, knowing the warrant, coupon, or document to be forged or altered;
commits an offence and upon conviction be liable to imprisonment for life or for any term not less than three years.

(2) If any person without lawful authority or excuse, proof whereof shall lie on him:-

- (a) engraves or makes on any plate, wood, stone, or other material, any share warrant or coupon purporting to be-
 - (i) a share warrant or coupon issued or made by any particular company in pursuance of this Act; or
 - (ii) a blank share warrant or coupon so issued or made; or
 - (iii) a part of such a share warrant or coupon; or
- (b) uses any plate, wood, stone, or other material, for the making or printing of any such share warrant or coupon, or of any such blank share warrant or coupon, or any part thereof respectively; or

(c) knowingly has in his custody or possession any plate, wood, stone, or other material on which any share warrant or coupon so purporting as aforesaid is engraved or made; commits an offence and upon conviction be liable to imprisonment for any term not exceeding fourteen years and not less than three years.

93.(1) Every company which, after the appointed day, issues a series of debentures shall keep at the registered office of the company a register of holders of such debentures.

Provided that:-

- (a) where the work of making up such register is done at some office of the company other than the registered office, such register may be kept at such office; and
- (b) where the work of making up such register is by arrangement by the company undertaken by some person on behalf of the company, such register may be kept at the office of that person at which the work is done.

(2) Every company shall give notice to the Registrar of the place where the register is kept and of any change in that place;

Provided that a company shall not be bound to give notice under this subsection if the register has, at all times since it came into existence, been kept at the registered office of the company.

94.(1) Every register of holders of debentures of a company shall, except when duly closed (but subject to such reasonable restrictions as the company may in General Meeting impose, so that not less than two hours in each day shall be allowed for inspection), be open to the inspection of the registered holder of any such debentures or any holder of shares in the company without fee, and of any other person on payment of a fee as may be prescribed by the company.

(2) Any such registered holder of debentures or holder of shares as aforesaid or any other person may require a copy of the register of the holders of debentures of the company or any part thereof on payment of fifty cents for every hundred words required to be copied.

(3) A copy of any trust deed for securing any issue of debentures shall be forwarded to every holder of any such debentures at his request on payment in the case of a printed trust deed of the sum of one shilling or such less sum as may be prescribed by the company, or, where the trust deed has not been printed, on payment of fifty cents for every hundred words required to be copied.

(4) If inspection is refused, or a copy is refused or not forwarded, the company and every officer of the company who is in default shall be liable to a fine.

(5) Where a company is in default as aforesaid, the court may by order compel an immediate inspection of the register or direct that the copies required shall be sent to the person requiring them.

(6) For the purposes of this section, a register shall be deemed to be duly closed if closed in accordance with provisions contained in the articles or in the debentures or, in the case of debenture stock, in the stock certificates, or in the trust deed or other document securing the debentures or debenture stock, during such period or periods, not exceeding in the whole thirty days in any year, as may be therein specified.

95.(1) Subject to the following provisions of this section, any provision contained in a trust deed for securing an issue of debentures, or in any contract with the holders of debentures secured by a trust deed, shall be void in so far as it would have the effect of exempting a trustee thereof from or indemnifying him against liability for breach of trust where he fails to show the degree of care and diligence required of him as trustee, having regard to the provisions of the trust deed conferring on him any powers, authorities or discretions.

(2) Subsection (1) shall not invalidate:-

- (a) any release otherwise validly given in respect of anything done or omitted to be done by a trustee before the giving of the release; or
- (b) any provision enabling such a release to be given:-
 - (i) on the agreement thereto of a majority of not less than three fourths in value of the debenture holders present and voting in person or, where proxies are permitted by proxy at a meeting summoned for the purpose; and
 - (ii) either with respect to specific acts or omissions or on the trustee dying or ceasing to act.

(3) Subsection (1) shall not apply:-

- (a) to invalidate any provision in force at the appointed day so long as any person then entitled to the benefit of that provision or afterwards given the benefit thereof under subsection (4) remains a trustee of the deed in question; or
- (b) to deprive any person of any exemption or right to be

indemnified in respect of anything done or omitted to be done by him whole any such provision was in force.

(4) While any trustee of a trustee deed remains entitled to the benefit of a provision saved by subsection (3), the benefit of that provisions may be given either:-

- (a) to all trustees of the deed, present and future; or
- (b) to any named trustees or proposed trustees thereof; by a resolution passed by a majority of not less than three-fourths in value of the debenture holders present in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose in accordance with the provisions of the summoned for the purpose in any manner approved by the court.

96. A condition contained in any debentures or in any deed for securing any debentures shall not be invalid by reason only that the debentures are thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period however long, any rule of equity to the contrary notwithstanding.

97.(1) Where a company has redeemed any debentures previously issued, then:-

- (a) unless any provision to the contrary, whether express or implied, is contained in the articles or in any contract entered into by the company; or
- (b) unless the company has, by passing a resolution to that effect or by some other act, manifested its intention that the debentures shall be cancelled;

the company shall have power to re-issue the debentures, either by reissuing the same debentures or by issuing other debentures in their place.

(2) Subject to the provisions of section 96, on a re-issue of redeemed debentures the person entitled to the debentures shall have the same priorities as if the debentures had never been redeemed.

(3) Where a company has deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

(4) The re-issue of a debenture or the issue of another debenture in its place under the power by this section given to a company, shall be treated as the issue of a new debenture for the purposes of stamp duty, but it shall not be so treated for the purposes of any provision limiting the amount or number of

debentures to be issued.

Provided that any person lending money on the security of a debenture re-issued under this section which appears to be duly stamped may give the debenture in evidence in any proceedings for enforcing his security without payment of the stamp duty or any penalty in respect thereof, unless he had notice or, but for his negligence, might have discovered, that the debenture was not duly stamped, but in any such case the company shall be liable to pay the proper stamp duty and penalty.

98. A contract with a company to take up and pay for any debentures of the company may be enforced by a decree for specific performance.

99.(1) The following applies in the case of a company where debentures of the company are secured by a charge which, as created was a floating charge.

(2) Where either a receiver is appointed on behalf of the holders of any debentures of a company secured by a floating charge, or possession is taken by or on behalf of the holders of any of the debentures of any property comprised in or subject to the charge, and the company is not at that time in the course of being wound up, the company's preferential debts shall be paid out of the assets coming to the hands of the person taking possession in priority to any claims for principal or interest in respect of the debentures.

(3) "Preferential debts" has the same meaning as in the Insolvency Act.

(4) Payments made under this section shall be recouped, as far as may be, out of the assets of the company available for payment of general creditors.

PART V REGISTRATION OF CHARGES

100.(1) Subject to the provisions of this Part, every charge created by a company registered in Zanzibar and being a charge to which this section applies shall, so far as any security on the company's property or undertaking is conferred thereby, be void against the liquidator and any creditor of the company, unless the prescribed particulars of the charge together with the instrument, if any, by which the charge is created or evidenced, are delivered to or received by the Registrar for registration in the manner required by this Act within forty two days after the date of its creation, but without prejudice to any contract or obligation for repayment of the money thereby secured and when a charge becomes void under this section the money secured thereby shall immediately become payable.

(2) This section applies to the following charges:-

- (a) a charge for the purpose of securing any issue of debentures;
- (b) a charge on uncalled share capital of the company;
- (c) a charge created or evidenced by an instrument which if executed by an individual, would require registration as a bill of sale;
- (d) a charge on immovable property, wherever situate. or any interest therein, but not including a charge for any rent or other periodical sum issuing out of immovable property;
- (e) a charge on book debts of the company;
- (f) a floating charge on the undertaking or property of the company
- (g) a charge on calls made but not paid;
- (h) a charge on a ship or any share in a ship;
- (i) a charge on goodwill, on a patent or a licence under a patent, on a trademark or on a copyright or a licence under a copyright.

(3) In the case of a charge created out of Zanzibar comprising property situate outside Zanzibar, the delivery to and the receipt by the Registrar of a copy verified in the prescribed manner of the instrument by which the charge is created or evidenced shall have the same effect for the purposes of this section as the delivery and receipt of the instrument itself, and forty-two days after the date on which the instrument or copy could, in due course of post, and if dispatched with due diligence, have been received in Zanzibar shall be substituted for forty two days after the date of the creation of the charge as the time within which the particulars and instrument or copy are to be delivered to the Registrar.

(4) Where a charge is created in Zanzibar but comprises property outside Zanzibar, the instrument creating or purporting to create the charge may be sent for registration under this section notwithstanding that further proceedings may be necessary to make the charge valid or effectual according to the law of the country in which the property is situate.

(5) Where a charge comprises property situate outside Zanzibar and registration in the country where the property is situate is necessary to make the charge valid or effectual according to the law of that country, the delivery to and the receipt by the Registrar of a copy verified in the prescribed manner of the instrument by which the charge is created or evidenced, together with a certificate in the prescribed form stating that the charge was presented for registration in the country where the property is situate on the date on which it was so presented shall, for the purposes of this section, have the same effect as the delivery and receipt of the instrument itself.

(6) Where a negotiable instrument has been given to secure the payment of any book debts of a company the deposit of the instrument for the purpose of securing an advance to the company shall not, for the purposes of this section,

be treated as a charge on those book debts.

(7) The holding of debentures entitling the holder to a charge on immovable property shall not for the purposes of this section be deemed to be an interest in immovable property.

(8) Where a series of debentures containing, or giving by reference to any other instrument, any charge to the benefit of which the debenture holders of that series are entitled *pari passu* is created by a company., it shall, for the purposes of this section, be sufficient if there are delivered to or received by the Registrar, within forty two days after the execution of the deed containing the charge or, if there is no such deed, after the execution of any debentures of the series. the following particulars:-

- (a) the total amount secured by the whole series; and
- (b) the dates of the resolutions authorising the issue of the series and the date of the covering deed, if any, by which the security is created or defined; and
- (c) a general description of the property charged; and
- (d) the name of the trustees, if any, for the debenture holders; together with the deed containing the charge, or, if there no such deed, one of the debentures of the series.

Provided that, where more than one issue is made of debentures in the series, there shall be sent to the Registrar for entry in the register particulars of the date and amount of each issue, but an missions do this shall not affect the validity of the debentures issued.

(9) Where any commission, allowance or discount has been paid or made either directly or indirectly by a company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any debentures of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars required to be sent for registration under this section shall include particulars as to the amount or rate per centum of the commission, discount or allowances to be paid or made, but omission to do this shall not affect the validity of the debentures issued.

Provided that the deposit of any debentures as security for any debt of the company shall not, for the purposes of this subsection, be treated as the issue of the debentures at a discount.

(10) In this Part the expression "charge" includes mortgage.

101.(1) It shall be the duty of a company to send to the Registrar for registration the particulars of every charge created by the company and of the issues of debentures of a series requiring registration under section 100, but

registration of any such charge may be effected on the application of any person interests therein.

(2) Where registration is effected on the application of some person other than the company, that person shall be entitled to recover from the company the amount of any fees properly paid by him to the Registrar on the registration.

(3) If any company makes default in sending to the Registrar for registration the particulars of any charge created by the company or of the issues of debentures of a series requiring registration as aforesaid, then, unless the registration has been effected on the application of some other person, the company and every officer of the company who is in default shall be liable to a default fine.

102. Where a company acquires any property which is subject to a charge of any such kind as would, if it had been created by the company after the acquisition of the property, have been required to be registered under this Part, the company shall cause the prescribed particulars of the charge, together with a copy (certified in the prescribed manner to be a correct copy) of the instrument, if any, by which the charge was created or is evidenced, to be delivered to the Registrar for registration in manner required by this Act within twenty-one days after the date on which the acquisition is completed.

Provided that, if the property is situate and the charge was created outside Zanzibar, twenty one days after the date on which the copy of the instrument could in due course of post, and if dispatched with due diligence, have been received in Zanzibar shall be substituted for twenty one days after the completion of the acquisition as the time within which the particulars and the copy of the instrument are to be delivered to the Registrar.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

103.(1) The Registrar shall keep, with respect to each company, a register in the prescribed form of all the charges requiring registration under this Part, and shall, on payment of the prescribed fee, enter in the register with respect to such charges the following particulars:-

- (a) in the case of a charge to the benefit of which the holders of a series of debentures are entitled, such particulars as are specified in section 100(8);
- (b) in the case of any other charge:-
 - (i) if the charge is a charge created by the company, the date of its creation, and if the charge was a charge existing on property acquired by the company, the date of the acquisition of the property; and

- (ii) the amount secured by the charge; and
- (iii) short particulars of the property charged; and
- (iv) the persons entitled to the charge.

(2) The Registrar shall give a certificate under his hand of the registration of any charge registered in pursuance of this Part, stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of this Part as to registration have been complied with.

(3) The register kept in pursuance of this section shall be open to inspection by any person on payment of the prescribed fee, for each inspection at such rate as may be prescribed by the Minister in the Regulations.

104.(1) The company shall cause a copy of every certificate of registration given under section 103 to be indorsed on every debenture or certificate of debenture stock which is issued by the company and the payment of which is secured by the charge so registered.

Provided that nothing in this subsection shall be construed as requiring a company to cause a certificate of registration of any charge so given to be indorsed on any debenture or certificate of debenture stock issued by the company before the charge is created.

(2) If any person knowingly and wilfully authorises or permits the delivery of any debenture or certificate of debenture stock which under the provisions of this section is required to have indorsed on it a copy of a certificate of registration without the copy's being so indorsed upon it, he shall, without prejudice to any other liability, be liable to a fine.

105. The Registrar, on evidence being given to his satisfaction with respect to any registered charge:-

- (a) that the debt for which the charge was given has been paid or satisfied in whole or in part; or
- (b) that part of the property or undertaking charged has been released from the charge or has ceased to form part of the company's property or undertaking;

may enter on the register a memorandum of satisfaction in whole or in part, or of the fact that part of the property or undertaking has been released from the charge or has ceased to form part of the company's property or undertaking, as the case may be, and where he enters a memorandum of satisfaction in whole he shall, if required, furnish the company with a copy thereof.

106. The court, on being satisfied that the omission to register a charge within the time required by this Act or that the omission or misstatement of any particular with respect to any such charge or in a memorandum of satisfaction

was accidental, or due to inadvertence or to some other sufficient cause, or is not of a nature to prejudice the position of creditors or shareholders of the company, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any person interested, and on such terms and conditions as seem to the court just and expedient, order that the time for registration shall be extended, or, as the case may be, that the omission or misstatement shall be rectified and may make such order as to the costs of the application as it thinks fit.

107.(1) If any person obtains an order of the appointment of a receiver or manager of the property of a company, or appoints such a receiver or manager under any powers contained in any instrument, he shall, within seven days from the date of the order or of the appointment under the said powers, give notice of the fact to the Registrar, and the Registrar shall, on payment of the prescribed fee, enter the fact in the register of charges.

(2) Where any person appointed receiver or manager of the property of a company under the powers contained in any instrument ceases to act as such receiver or manager, he shall, on so ceasing, give the Registrar notice to that effect, and the Registrar shall enter the notice in the register of charges.

(3) If any person makes default in complying with the requirements of this section, he shall be liable to a default fine.

Provisions as to Company's Register of Charges and as to Copies of Instruments creating Charges

108. Every company shall cause a copy of every instrument creating any charge requiring registration under this Part to be kept at the registered office of the company:

Provided that, in the case of a series of uniform debentures, a copy of one debenture of the series shall be sufficient.

109.(1) Every limited company shall keep at the registered office of the company a register of charges and enter therein all charges specifically affecting property of the company and all floating charges on the undertaking or any property of the company, giving in each case a short description of the property charged, the amount of the charge, and, except in the case of securities to bearer, the names of the persons entitled thereto.

(2) If any officer of the company knowingly and wilfully authorises or permits the omission of any entry required to be made in pursuance of this section, he shall be liable to a fine.

110.(1) The copies of instruments creating any charge requiring registration under this Part with the Registrar, and the register of charges kept in pursuance of section 109, shall be open during business hours (but subject to such

reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day shall be allowed for inspection) to the inspection of any creditor or member of the company without fee, and the register of charges shall also be open to the inspection of any other person on payment of such fee for each inspection, as the company may prescribe.

(2) If inspection of the said copies or register is refused, every officer of the company who is in default shall be liable to a fine and a further fine for every day during which the refusal continues and the court may by order compel an immediate inspection of the copies or register.

Application of Part IV to Companies incorporated outside Zanzibar

111. The provisions of this Part shall extend to charges on property in Zanzibar which are created, and to charges on property in Zanzibar which is acquired, by a company (whether a company within the meaning of this Act or not) incorporated outside Zanzibar which has an established place of business in Zanzibar.

**PART VI
MANAGEMENT AND ADMINISTRATION**

112.(1) A company shall, as from the day on which it begins to carry on business or as from the fourteenth day after the date of its incorporation, whichever is the earlier, have a registered office in Zanzibar to which all communications and notices may be addressed.

(2) Notice of the situation of the registered office, and of any change therein, shall be given within fourteen days after the date of the incorporation of the company or of the change, as the case may be, to the Registrar, who shall record the same.

The inclusion in the annual return of a company of a statement as to the address of its registered office shall not be, taken to satisfy the obligation imposed by this subsection.

(3) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

113.(1) Every company shall:-

- (a) paint or affix, and keep painted or affixed, its name on the outside of every office or place in which its business is carried on, in a conspicuous position, in easily legible Roman letters;
- (b) have its name engraved in legible Roman letters on its seal;
- (c) have its name mentioned in legible Roman letters in all business

letters of the company and in all notices and other official publications of the company, and in all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills of parcels, invoices, receipts and letters of credit of the company.

(2) If a company does not paint or affix its name in manner directed by this Act, the company and every officer of the company who is in default shall be liable to a fine, and if a company does not keep its name painted or affixed in manner so directed, the company and every officer of the company who is in default shall be liable to a default fine.

(3) If a company fails to comply with paragraph (b) or paragraph (c) of subsection (1), the company shall be liable to a fine.

(4) If an officer of a company or any person on its behalf:-

(a) uses or authorizes the use of any seal purporting to be a seal of the company where on its name is not so engraved as aforesaid; or

(b) issues or authorizes the issue of any business letter of the company or any notice or other official publication of the company, or signs or authorises to be signed on behalf of the company any bill of exchange, promissory note, endorsement, cheque or order for money or goods wherein its name is not mentioned in the manner aforesaid; or

(c) issues or authorises the issue of any bill of parcels, invoice, receipt or letter of credit of the company wherein its name is not mentioned in manner aforesaid;

he shall be liable to a fine, and shall further be personally liable to the holder of the bill of exchange promissory note, cheque or order for money or goods for the amount thereof unless it is duly paid by the company.

114.(1) Every company shall submit to the Registrar, a statement of paid-up capital consisting of a list of company's assets in respect of the equity of the company in the manner prescribed under regulations of this Act.

(2) Where any notice, advertisement or other official publication of a company contains a statement of the amount of the authorized capital of the company, such notice, advertisement, or other official publication shall also contain a statement in an equally prominent position and in equally conspicuous characters of the amount of the capital which has been subscribed and the amount paid up.

(3) Any company which makes default in complying with the requirements of this section and every officer who is in default shall be liable to

a fine.

115.(1) Where a company having a share capital has issued a prospectus inviting the public to subscribe for its shares, the company shall not commence any business or exercise any borrowing powers unless:-

- (a) shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription; and
- (b) every director of the company has paid to the company, on each of the shares taken or contracted to be taken by him and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription; and
- (c) no money is or may become liable to be repaid to applicants for any shares or debentures which have been offered for public subscription by reason of any failure to apply for or to obtain permission for the shares or debentures to be dealt in on any stock exchange; and
- (d) there has been delivered to the Registrar for registration a statutory declaration by the secretary or one of the directors, in the prescribed form, that the aforesaid conditions have been complied with.

(2) Where a company having a share capital has not issued a prospectus inviting the public to subscribe for its shares, the company shall not commence any business or exercise any borrowing powers unless:-

- (a) there has been delivered to the Registrar for registration a statement in lieu of prospectus; and
- (b) every director of the company has paid to the company, on each of the shares taken or contracted to be taken by him and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares payable in cash; and
- (c) there has been delivered to the Registrar for registration a statutory declaration by the secretary or one of the directors, in the prescribed form, that paragraph (b) of this subsection has been complied with.

(3) The Registrar shall, on the delivery to him of the said statutory declaration and, in the case of a company which is required by this section to deliver a statement in lieu of prospectus, of such a statement, certify that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled.

(4) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

(5) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.

(6) If any company commences business or exercises borrowing powers in contravention of this section, every person who is responsible for the contravention shall, without prejudice to any other liability, be liable to a fine for every day during which the contravention continues.

(7) Nothing in this section shall apply to a private company.

116.(1) Every company shall keep a register of its members and enter therein the following particulars:-

- (a) the names and addresses of the members, and, in the case of a company having share capital a statement of the shares held by each member, distinguishing each share by its number so long as the share has a number, and of the amount paid or agreed to be considered as paid on the shares of each member;
- (b) the date at which each person was entered in the register as a member;
- (c) the date at which any person ceased to be a member:

Provided that, where the company has converted any of its shares into stock and given notice of the conversion to the Registrar, the register shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares specified in paragraph (a) of this subsection.

(2) The register of members shall be kept at the registered office of the company.

Provided that:-

- (a) if the work of making it up is done at another office of the company, it may be kept at that other office; and
- (b) if the company arranges with some other person for the making up of the register to be undertaken on behalf of the company by that other person, it may be kept at the office of that other person at which the work is done provided that it shall not be kept at a place outside Zanzibar.

(3) Every company shall send notice to the Registrar of the place where its register of members is kept and of any change in that place:

Provided that a company shall not be bound to send notice under this subsection where the register has at all times since it came into existence been kept at the registered office of the company.

(4) Where a company makes default in complying with subsection (1) of this section or makes default for fourteen days in complying with subsection (3), the company and every officer of the company who is in default shall be liable to a default fine.

117.(1) Every company having more than fifty members shall, unless the register of members is in such a form as to constitute in itself an index, keep an index of the names of the members of the company and shall, within fourteen days after the date on which any alteration is made in the register of members, make any necessary alteration in the index.

(2) The index shall in respect of each member contain a sufficient indication to enable the account of that member in the register to be readily found.

(3) The index shall be at all times kept at the same place as the register of members.

(4) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to default fine.

118.(1) On the issue of a share warrant the company shall strike out of its register of members the name of the member then entered therein as holding the shares specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars, namely:-

- (a) the fact of the issue of the warrant;
- (b) a statement of the shares included in the warrant, distinguishing each share by its number so long as the share has a number; and
- (c) the date of the issue of the warrant.

(2) The bearer of a share warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation, to have his name entered as a member in the register of members.

(3) The company shall be responsible for any loss incurred by any person by reason of the company's entering in the register the name of a bearer of a share warrant in respect of the shares therein specified without the warrant's being surrendered and cancelled.

(4) Until the warrant is surrendered, the particulars specified in

subsection (1) shall be deemed to be the particulars required by this Act to be entered in the register of members, and, on the surrender, the date of the surrender shall be entered.

(5) Subject to the provisions of this Act, the bearer of a share warrant may, if the articles of the company so provide, shall be deemed to be a member of the company within the meaning of this Act, either to the full extent or for any purposes defined in the articles.

119.(1) Except when the register of members is closed under the provisions of this Act, the register, and index of the names, of the members of a company shall during business hours (subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member without charge and of any other person on payment of such sum as prescribed under the Regulations, for each inspection.

(2) Any member or other person may require a copy of the register, or of any part thereof, on payment of such sum as prescribed under the Regulations, for every hundred words or fractional part thereof required to be copied.

The company shall cause any copy so required by any person to be sent to that person within a period of ten days commencing on the day next after the day on which the requirement is received by the company.

(3) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper period, the company and every officer of the company who is in default shall be liable in respect of each offence to a fine.

(4) In the case of any such refusal or default, the court may by order compel an immediate inspection of the register and index or direct that the copies required shall be sent to the persons requiring them.

120. Where, by virtue of proviso (b) to section 116(2) the register of members is kept at the office of some person other than the company, and by reason of any default of his the company fails to comply with section 116(3) of that section, section 117(3), or section 119 or with any requirements of this Act as to the production of the register, that other person shall be liable to the same penalties as if he were an officer of the company who was in default, and the power of the court under section 119(4) shall extend to the making of orders against that other person and his officers and servants.

121. A company may, on giving notice by advertisement in some newspaper circulating in the district in which the registered office of the company is situated, close the register of members for any time or times not exceeding in the whole thirty days in each year.

122.(1) If:-

- (a) the name of any person is, without sufficient cause, entered in or omitted from the register of members of a company; or
- (b) default is made or unnecessary delay, takes place in entering on the register the fact of any person's having ceased to be a member;
the person aggrieved, or any member of the company, or the company, may apply to the court for rectification of the register.

(2) Where an application is made under this section, the court may either refuse the application or may order rectification of the register and payment by the company of any damages sustained by any party aggrieved.

(3) On an application under this section the court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand, and generally may decide any question necessary or expedient to be decided for rectification of the register.

(4) In the case of a company required by this Act to send a list of its members to the Registrar, the court, when making an order for rectification of the register shall by its order direct notice of the recertification to be given to the Registrar.

123. No notice of any trust, expressed, implied or constructive, shall be entered on the register, or be receivable by the Registrar.

124. The register of member shall be prima-facie evidence of any matters by this Act directed or authorised to be inserted therein

Branch Register.

125.(1) A company having a share capital may, if so authorized by its articles, cause to be kept in any country outside Zanzibar a branch register of members resident in that country (in this Act called a "branch register").

(2) The company shall give to the Registrar notice of the situation of the office where any branch register is kept and of any change in its situation, and if it is discontinued of its discontinuance, and any such notice shall be given within one month of the opening of the office or of the change or discontinuance, as the case may be.

(3) If default is made in complying with subsection (2), the company and every officer of the company who is in default shall be liable to a default fine.

126.(1) A branch register shall be deemed to be part of the company's register of members (in this section called "the principal register").

(2) It shall be kept in the same manner in which the principal register is by this Act required to be kept, except that the advertisement before closing the register shall be inserted in some newspaper circulating in the district where the branch register is kept.

(3) The company shall:-

- (a) transmit to its registered office a copy of every entry in its branch register as soon as may be after the entry is made; and
- (b) cause to be kept at the place where the company's principal register is kept a duplicate of its branch register duly entered up from time to time.

Every such duplicate shall for all the purposes of this Act be deemed to be part of the principal register.

(4) Subject to the provisions of this section with respect to the duplicate register, the shares registered in a branch register shall be distinguished from the shares registered in the principal register, and no transaction with respect to any shares registered in a branch register shall, during the continuance of that registration, be registered in any other register.

(5) A company may cease to keep a branch register, and thereupon all entries in that register shall be transferred to the principal register.

(6) Subject to the provisions of this Act, any company may, by its articles, make such provisions as it may think fit respecting the keeping of branch registers.

(7) If default is made in complying with subsection (3), the company and every officer of the company who is in default shall be liable to a default fine; and where, by virtue of proviso (b) to section 116(2), the principal register is kept at the office of some person other than the company and by reason of any default of his the company fails to comply with paragraph (b) of subsection (3) of this section, he shall be liable to the same penalty as if he were an officer of the company who was in default.

127. An instrument of transfer of a share registered in a branch register, shall be deemed to be a transfer of property situated out of Zanzibar, and, unless executed in any part of Zanzibar, shall be exempt from stamp duty chargeable in Zanzibar.

128. If by virtue of the law in force in any country outside companies

incorporated under that law have power to keep in Zanzibar branch, registers of their members resident in Zanzibar, the Registrar may by order published in the Gazette direct that sections 120(2) and 123 shall, subject to any modifications and adaptations specified in the order, apply to and in relation to any such branch registers kept in Zanzibar as they apply to and in relation to the registers of companies within the meaning of this Act.

129.(1) Every company having a share capital shall, once at least in every year, make a return containing with respect to the registered office of the company, registers of members and debenture holders, shares and debentures, indebtedness, past and present members and directors and secretary, the matters specified in Regulations made under this Act and the said return shall be in the form set out in such Regulations or as near thereto as circumstances admit:

Provided that:-

- (a) a company need not make a return under this subsection either in the year of its incorporation or, if it is not required by section 136 to hold an annual general meeting during the following year, in that year;
- (b) where the company has converted any of its shares into stock and given notice of the conversion to the Registrar, the list referred to in the Regulations made under this Act shall state the amount of stock held by each of the existing members' instead of the amount of shares and the particulars relating to shares required by that paragraph;
- (c) the return may, in any year, if the return for either of the two immediately preceding years has given as at the date of that return the full particulars required by the said paragraph 5, give only such of the particulars required by that paragraph as relate to persons ceasing to be or becoming members since the date of the last return and to shares transferred since that date or to changes as compared with that date in the amount of stock held by a member.

(2) In the case of a company keeping a branch register:-

- (a) references in proviso (c) to subsection (1) to the particulars required by the Regulations shall be taken as not including any such particulars contained in the branch register in so far as copies of the entries containing those particulars are not received at the registered office of the company before the date when the return in question is made; and
- (b) where an annual return is made between the date when any entries are made in the branch register and the date when copies of those entries are received at the registered office of the company, the particulars contained in those entries, so far as

relevant to an annual return, shall be included in the next or a subsequent annual return as may be appropriate having regard to the particulars included in that return with respect to the company's register of members.

(3) If a company fails to comply with this section, the company and every officer of the company who is in default shall be liable to a default fine.

(4) For the purposes of this section and of Regulations made under this Act, the expressions "director" and "officer" shall include any person in accordance with whose directions or instructions the directors of the company are accustomed to act.

130.(1) Every company not having a share capital shall once at least in every calendar year make a return stating:-

- (a) the address of the registered office of the company;
- (b) if the register of members is, under the provisions of this Act, kept elsewhere than at that office, the address of the place where it is kept;
- (c) if any register of holders of debentures of the company or any duplicate of any such register or part of any such register is, under the provisions of this Act, kept elsewhere than at the registered office of the company, the address of the place where it is kept;
- (d) all such particulars with respect to the persons who at the date of the return are the directors of the company and any person who at that date is secretary of the company as are by this Act required to be contained with respect to directors and the secretary respectively in the register of directors and secretaries of a company;

Provided that a company need not make a return under this subsection either in the year of its incorporation or, if it is not required by section 136 to hold an annual general meeting during the following year, in that year.

(2) There shall be annexed to the return a statement containing particulars of the total amount of the indebtedness of the company in respect of all mortgages and charges which are required to be registered with the Registrar under this Act.

(3) If a company fails to comply with this section, the company and every officer of the company who is in default shall be liable to a default fine.

(4) For the purposes of this section the expressions "officer" and "director" shall include any person in accordance with whose directions or

instructions the directors of the company are accustomed to act.

131.(1) The annual return shall be completed within forty-two days after the annual general meeting for the year, whether or not that meeting is the first or only ordinary general meeting, or the first or only general meeting, of the company in the year, and the company shall forthwith forward to the Registrar a copy signed both by a director and by the secretary of the company.

(2) If a company fails to comply with this section, the company and every officer of the company who is in default shall be liable to a default fine.

For the purposes of this subsection the expression "officer" shall include any person in accordance with whose directions or instructions the directors of the company are accustomed to act.

132.(1) Subject to the provisions of this Act, there shall be annexed to the annual return:-

(a) a written copy, certified both by a director and by the secretary of the company to be a true copy, of every balance sheet laid before the company in general meeting during the period to which the return relates (including every document required by law to be annexed to the balance sheet); and

(b) a copy, certified as aforesaid, of the report of the auditors on, and of the report of the directors accompanying, each such balance sheet;
and where any such balance sheet or document required by law to be annexed thereto is in any language other than English or Kiswahili, there shall be annexed to that balance sheet a translation in English or Kiswahili of the balance sheet or document certified in the prescribed manner to be a correct translation.

(2) If any such balance sheet as aforesaid or document required by law to be annexed thereto did not comply with the requirements of the law as in force at the date of the audit with respect to the form of balance sheets or documents aforesaid, as the case may be, there shall be made such additions to and corrections in the copy as would have been required to be made in the balance sheet or document in order to make it comply with the said requirements, and the fact that the copy has been so amended shall be stated thereon.

(3) If a company fails to comply with this section, the company and every officer of the company who is in default shall be liable to a default fine.

For the purposes of this subsection, the expression "officer" shall include any person in accordance with whose directions or instructions the directors of the

company are accustomed to act.

133. A private company shall send with the annual return required by section 129 a certificate signed both by a director and by the secretary of the company that the company has not, since the date of the last return, or, in the case of a first return, since the date of the incorporation of the company, issued any invitation to the public to subscribe for any shares or debentures of the company, and, where the annual return discloses the fact that the number of members of the company exceeds fifty, also a certificate so signed that the excess consists wholly of persons who under section 30(1)(b) are not to be included in reckoning the number of fifty.

134.(1) A private company shall be exempted from requirements imposed by section 133 if, but only if:-

- (a) the conditions mentioned in the next following subsection are satisfied at the date of the return and have been satisfied at all times since the company's registration; and
- (b) there is sent with the return a certificate, signed by the persons signing the certificates required to be so sent under section 133, that to the best of their knowledge and belief the said conditions are and have been satisfied as aforesaid.

Provided that if at any time it is shown that the said conditions are then satisfied in the case of any private company, the Registrar may on the application of the company's directors direct that, in relation to any subsequent annual returns of the company, it shall not be necessary for the said conditions to have been satisfied before that time, and the certificates sent with those returns shall in that event relate only to the period since that time.

(2) The said conditions are:-

- (a) that the conditions contained in the Regulations are satisfied as to the person interested in the company's shares and debentures; and
- (b) that the number of persons holding debentures of the company is not more than fifty (joint holders being treated as a single person); and
- (c) that nobody corporate is a director of the company and neither the company nor any of the directors is party or privy to any arrangement whereby the policy of the company is capable of being determined by persons other than the directors, members and debenture holders or trustees for debenture holders.

(3) Any reference in this Act to an exempt private company shall be construed as referring to a company with respect to which the conditions mentioned in subsection (2) are satisfied and have been satisfied at all times since the company's registration or since the giving by the Registrar of a

direction under the proviso to subsection (1).

135.(1) Every company limited by shares and every company limited by guarantee and having a share capital shall, within a period of not less than one month nor more than three months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company, which shall be called "the statutory meeting".

(2) The directors shall, at least fourteen days before the day on which the meeting is held, forward a report (in this Act referred to as "the statutory report") to every member of the company:

Provided that if the statutory report is forwarded later than is required by this subsection, it shall, notwithstanding that fact, be deemed to have been duly forwarded if it is so agreed by all the members entitled to attend and vote at the meeting.

(3) The statutory report shall be certified by not less than two directors of the company and shall state:-

- (a) the total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;
- (b) the total amount of cash received by the company in respect of all the shares allotted, distinguished as aforesaid;
- (c) an abstract of the receipts of the company and of the payments made there out, up to a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made there out, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the company;
- (d) the names, addresses and descriptions of the directors, auditors, if any, managers, if any, and secretary of the company; and
- (e) the particulars of any contract the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

(4) The statutory report shall so far as it relates to the shares allotted by the company, and to the cash received in respect of such shares, to the receipts and payments of the company on capital account, be certified as correct by the auditors, if any, of the company.

(5) The directors shall cause a copy of the statutory report, certified as required by this section to be delivered to the Registrar for registration forthwith after the sending thereof to the members of the company.

(6) The directors shall cause a list showing the names, descriptions and addresses of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting and to remain open and accessible to any member of the company during the continuance of the meeting.

(7) The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company, or arising out of the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles may be passed.

(8) The meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given in accordance with the articles, either before or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.

(9) In the event of any default in complying with the provisions of this section, every director of the company who is knowingly and wilfully guilty of the default or, in the case of default by the company, every officer of the company who is in default shall be liable to a fine.

(10) This section shall not apply to a private company.

136.(1) Every company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one annual general meeting of a company and that of the next.

Provided that, so long as a company holds its first annual general meeting within eighteen months of its incorporation, it need not hold it in the year of its incorporation or in the following year.

(2) If default is made in holding a meeting of the company in accordance with subsection (1), the Registrar may, on the application of any member of the company, call, or direct the calling of, a general meeting of the company and give such ancillary or consequential directions as the Registrar thinks expedient, including directions modifying or supplementing, in relation to the calling, holding and conducting of the meeting, the operation of the company's articles; and the directions that may be given under this subsection include a direction that one member of the company present in person or by proxy shall be deemed to constitute a meeting.

(3) A general meeting held in pursuance of subsection (2) shall, subject

to any directions of the Registrar, be deemed to be an annual general meeting of the company but, where a meeting so held is not held in the year in which the default in holding the company's annual general meeting occurred, the meeting so held shall not be treated as the annual general meeting for the year in which it is held unless at that meeting the company resolves that it shall be so treated.

(4) Where a company resolves that a meeting shall be so treated, a copy of the resolution shall, within fifteen days after the passing thereof, be forwarded to the Registrar and recorded by him.

(5) If default is made in holding a meeting of the company in accordance with subsection (1), or in complying with any directions of the Registrar under subsection (2), the company and every officer of the company who is in default shall be liable to a fine and if default is made in complying with subsection (4) the company and every officer of the company who is in default shall be liable to a default fine.

137.(1) The directors of a company, notwithstanding anything in its articles, shall, on the requisition of members of the company holding at the date of the deposit of the requisition not less than one-tenth of such of the paid-up capital of the company as at the date of the deposit carries the right of voting at general meetings of the company, or, in the case of a company not having a share capital, members of the company representing not less than one-tenth of the total voting rights of all the members having at the said date a right to vote at general meetings of the company, forthwith proceed duly to convene an extraordinary general meeting of the company.

(2) The requisition must state the objects of the meeting, and must be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form each signed by one or more requisitionists.

(3) If the directors do not within twenty one days from the date of the deposit of the requisition proceed duly to convene a meeting, the requisitionists, or any of them representing more than one half of the total voting rights of all of them may themselves convene a meeting, but any meeting so convened shall not be held after the expiration of three months from the said date.

(4) A meeting convened under this section by the requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by directors.

(5) Any reasonable expenses incurred by the requisitionists by reasons of the failure of the directors duly to convene a meeting shall be repaid to the requisitionists by the company, and any sum so repaid shall be retained by the company out of any sums due or to become due from the company by ways of fees or other remuneration in respect of their services to such of the directors as were in default.

(6) For the purposes of this section the directors shall, in the case of a meeting at which a resolution is to be proposed as a special resolution, be deemed not to have duly convened the meeting if they do not give such notice thereof as is required by section 146.

138.(1) Any provision of a company's articles shall be void in so far as it provides for the calling of a meeting of the company (other than an adjourned meeting) by a shorter notice than:

- (a) in the case of the annual general meeting, twenty one days' notice in writing; and
- (b) in the case of a meeting other than an annual general meeting or a meeting for the passing of a special resolution, fourteen days' notice in writing in the case of a company other than an unlimited company and seven days' notice in writing in the case of an unlimited company.

(2) Save in so far as the articles of a company make other provision in that behalf (not being a provision avoided by subsection (1) in a meeting of the company (other than an adjourned meeting) may be called:-

- (a) in the case of the annual general meeting, by twenty one day notice in writing; and
- (b) in the case of a meeting other than an annual general meeting or a meeting for the passing of a special resolution, by fourteen days' notice in writing in the case of a company other than an unlimited company and by seven days' notice in writing in the case of an unlimited company.

(3) A meeting of a company shall, notwithstanding that it is called by shorter notice than that specified in subsection (2) or in the company's articles, as the case may be, be deemed to have been duly called if it is so agreed:-

- (a) in the case of a meeting called as the annual general meeting, by all the members entitled to attend and vote thereat; and
- (b) in the case of any other meeting, by a majority in number of the members having a right to attend and vote at the meeting, being a majority together holding not less than ninety five per centum in nominal value of the shares giving a right to attend and vote at the meeting, or, in the case of a company not having a share capital, together, representing not less than ninety five per centum of the total voting rights at that meeting of all the members.

139. The following provisions shall have effect in so far as the articles of the company do not make other provision in that behalf:-

- (a) Notice of the meeting of a company shall be served on every member of the company in the manner in which notices are required to be served by Table A and for the purpose of this paragraph the expression "Table A" means that Table as for the time being in force;
- (b) two or more members holding not less than one-tenth of the issued share capital or, if the company has not a share capital, not less than five per centum in number of the members of the company may call a meeting.
- (c) in the case of a private company two members, and in the case of any other company three members, personally present shall be a quorum;
- (d) any member elected by the members present at a meeting may be a chairman thereof;
- (e) in the case of a company originally having a share capital, every member shall have one vote in respect of each share or stock held by him, and in any other case every member shall have one vote.

140.(1) If for any reason it is impracticable to call a meeting of a company in any manner in which meetings of that company may be called, or to conduct the meeting of the company in manner prescribed by the articles or this Act, the court may, either of its own motion or on the application of any director of the company or of any member of the company who would be entitled to vote at the meeting, order a meeting of the company to be called, held and conducted in such manner as the court thinks fit, and where any such order is made may give such ancillary or consequential directions as it thinks expedient; and the directions that may be given under this subsection include a direction that one member of the company present in person or by proxy shall be deemed to constitute a meeting.

(2) Any meeting called, held and conducted in accordance with an order under subsection (1) shall for all purposes be deemed to be a meeting of the company duly called, held and conducted.

141.(1) Any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person (whether a member or not) as his proxy to attend and vote instead of him, and a proxy appointed to attend and vote instead of a member of a private company shall also have the same right as the member to speak at the meeting:

Provided that, unless the articles otherwise provide:-

- (a) this subsection shall not apply in the case of a company not having a share capital; and

(b) a member of a private company shall not be entitled to appoint more than one proxy to attend on the same occasion; and

(c) a proxy shall not be entitled to vote except on a poll.

(2) In every notice calling a meeting of a company having a share capital there shall appear with reasonable prominence a statement that a member entitled to attend and vote is entitled to appoint a proxy or, where that is allowed, one or more proxies to attend and vote instead of him, and that a proxy needs not be a member; and if default is made in complying with this subsection as respects any meeting, every officer of the company who is in default shall be liable to a fine.

(3) Any provision contained in a company's articles shall be void in so far as it would have the effect of requiring the instrument appointing a proxy, or any other document necessary to show the validity of or otherwise relating to the appointment of a proxy, to be received by the company or any other person more than forty eight hours before a meeting or adjourned meeting in order that the appointment may be effective thereat.

(4) If for the purpose of any meeting of a company invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the company's expense to some only of the members entitled to be sent a notice of the meeting and to vote thereat by proxy, every officer of the company who knowingly and wilfully authorizes or permits issue as aforesaid shall be liable to a fine.

Provided that an officer shall not be liable under this subsection by reason only of the issue to a member at his request in writing of a form of appointment naming the proxy or of a list of persons willing to act as proxy if the form or list is available on request in writing to every member entitled to vote at the meeting by proxy.

(5) This section shall apply to meetings of any class of members of a company as it applies to general meeting of the company.

142.(1) Any provision contained in a company's article shall be void in so far as it would have the effect either:-

(a) of excluding the right to demand a poll at a general meeting on any question other than the election of the chairman of the meeting or the adjournment of the meeting, or

(b) of making ineffective a demand for a poll on any such question which is made either:-

(i) by not less than five members having the right to vote at the meeting; or

(ii) by a member or members representing not less than one tenth of the total voting rights of all the members having the right to vote at the meeting; or

(iii) by a member or members holding shares in the company conferring a right to vote at the meeting, being shares on which an aggregate sum has been paid up equal to not less than one tenth of the total sum paid upon all the shares conferring that right.

(2) The instrument appointing a proxy to vote at a meeting of a company shall be deemed also to confer authority to demand or join in demanding a poll, and for the purposes of subsection (1) a demand by a person as proxy for a member shall be the same as a demand by the member.

143. On a poll taken at a meeting of a company or a meeting of any class of members of a company, a member entitled to more than one vote need not, if he votes, use all his votes or cast, and the votes he uses in the same way.

144. (1) A corporation, whether a company within the meaning of this Act or not, may:-

(a) If it is a member of another corporation, being a company within the meaning of this Act, by resolution of its directors or other governing body authorize such person as it thinks fit to act as its representative at any meeting of the company or at any meeting of any class of members of the company;

(b) If it is a creditor (including a holder of debentures) of another corporation, being a company within the meaning of this Act, by resolution of its directors or other governing body authorize such person as it thinks fit to act as its representative at any meeting of any creditors of the company held in pursuance of this Act or of any rules made thereunder, or in pursuance of the provisions contained in any debenture or trust deed, as the case may be.

(2) A person authorized as aforesaid shall be entitled to exercise the same powers on behalf of the corporation which the represents as that corporation could exercise if it were an individual shareholder, creditor or holder of debentures of that other company.

145.(1) Subject to the following provisions of this section it shall be the duty of a company, on the requisition in writing of such number of members as is hereinafter specified and (unless the company otherwise resolves) at the expense of the requisitionists:-

(a) To give to members of the company entitled to receive notice of the next annual general meeting notice of any resolution which may properly be moved and is intended to be moved at that

meeting;

- (b) To circulate to members entitled to have notice of any general meeting sent to them any statement of not more than one thousand words with respect to the matter referred to in any proposed resolution or the business to be dealt with that meeting.

(2) The number of members necessary for a requisition under subsection (1) shall be:-

- (a) any number of members representing not less than one twentieth of the total voting rights of all the members having at the date of the requisition a right to vote at the meeting to which the requisition relates; or
- (b) not less than one hundred members holding shares in the company on which there has been paid up an average sum, per member, of not less than two thousand shillings.

(3) Notice of any such resolution shall be given, and any such statement shall be circulated, to members of the company entitled to have notice, of the meeting sent to them by serving a copy of the resolution or statement on each such member in any manner permitted for service of notice or the meeting, and notice of any such resolution shall be given to any other member of the company by giving notice of the general effect of the resolution in any manner permitted for giving him notice of meetings of the company.

Provided that the copy shall be served, or notice of the effect of the resolution shall be given, as the case may be, in the same manner and, so far as practicable for it to be served or given at that time, it shall be served or given as soon as practicable thereafter.

(4) A company shall not be bound under this section to give notice of any resolution or to circulate any statement unless:-

- (a) a copy of the requisition signed by the requisitionists (or two or more copies which between them contain the signatures of all the requisitionists) is deposited at the registered office of the company:-
 - (i) in the case of a requisition requiring notice of a resolution, not less than six weeks before the meeting; and
 - (ii) in the case of any other requisition, not less than one week before the meeting; and
- (b) there is deposited or tendered with the requisition a sum reasonably sufficient to meet the company's expenses in giving effect thereto;

Provided that if, after a copy of a requisition requiring notice of a resolution has

been deposited at the registered office of the company, an annual general meeting is called for a date six weeks or less after the copy has been deposited, the copy though not deposited within the time required by this subsection shall be deemed to have been properly deposited for the purposes thereof.

(5) The company shall also not be bound under this section to circulate any statement if, on the application either of the company or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter, and the court may order the company's costs on an application under this section to be paid in whole or in part by the requisitionists, notwithstanding that they are not parties to the applications.

(6) Notwithstanding anything in the company's articles, the business which may be dealt with at an annual general meeting shall include any resolution of which notice is given in accordance with this section, and for the purposes of this subsection notice shall be deemed to have been so given notwithstanding the accidental omission, in giving it, of one or more members

(7) In the event of any default in complying with the provisions of this section, every officer of the company who is in default shall be liable to a fine.

146.(1) A resolution shall be an extra-ordinary resolution when it has been passed by a majority of not less than three-fourths of such members as, being entitled so to do, vote in person, or where proxies are allowed, by proxy, at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given.

(2) a resolution shall be a special resolution when it has been passed by such a majority as is required for the passing of an extraordinary resolution and at a general meeting of which not less than twenty one days' notice, specifying the intention to propose the resolution as a special resolution, has been duly given;

Provided that, if it is so agreed by a majority in number of the members having the right to attend and vote at any such meeting, being a majority together holding not less than ninety five per centum in nominal value of the shares giving that right, or, in the case of a company not having a share capital, together representing not less than ninety-five per centum of the total voting rights at that meeting of all the members, a resolution may be proposed and passed as a special resolution at a meeting of which less than twenty one days' notice has been given.

(3) At any meeting at which an extra-ordinary resolution or a special resolution is submitted to be passed, a declaration of the chairman that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(4) In computing the majority on a poll demanded on the question that an extra-ordinary resolution or a special resolution be passed, reference shall be had to the number of votes cast for and against the resolution.

(5) For the purpose of this section, notice of a meeting shall be deemed to be duly given and the meeting to be duly held when the notice is given and the meeting held in manner provided by this Act or the articles.

147. Whereby any provision hereafter contained in this Act special notice is required of a resolution, the resolution shall not be effective unless notice of the intention to move it has been given to the company not less than twenty eight days before the meeting at which it is moved, and the company shall give its members notice of any such resolution at the same time and in the same manner as it gives notice of the meeting, or if that is not practicable, shall give them notice thereof in any other mode allowed by the articles, not less than twenty one days before the meeting.

Provided that if, after notice of the intention to move such a resolution has been given to the company, a meeting is called for a date twenty eight days or less after the notice has been given, the notice though not given within the time required by this subsection shall be deemed to have been properly given for the purposes thereof.

148.(1) A printed copy of every resolution or agreement to which this section applies shall, within thirty days after the passing or making thereof, be forwarded to the Registrar and recorded by him:

Provided that an exempt private company need not forward a printed copy of any such resolution or agreement if instead it forwards to the Registrar a copy on some other form approved by him.

(2) Where articles have been registered, a copy of every such resolution or agreement for the time being in force shall be embodied in or annexed to every copy of the articles issued after the passing of the resolution or the making of the agreement.

(3) Where articles have not been registered, a printed copy of every such resolution or agreement shall be forwarded to any member at his request on payment such sum as prescribed under the Regulations.

(4) This section shall apply to:-

- (a) special resolutions;
- (b) extraordinary resolutions;
- (c) resolutions which have been agreed to by all the members of a company, but which, if not so agreed to, would not have been

effective for their purpose unless, as the case may be, they had been passed as special resolutions or as extraordinary resolutions;

(d) resolutions or agreements which have been agreed to by all the members of some class of shareholders but which, if not so agreed to, would not have been effective for their purpose unless they had been passed by some particular majority or otherwise in some particular manner, and all resolutions or agreements which effectively bind all the members of any class of shareholders though not agreed to by all those members;

(e) resolutions requiring a company to be wound up voluntarily, passed under the provisions of the Insolvency Act.

(5) If a company fails to comply with subsection (1), the company and every officer of the company who is in default shall be liable to a default fine.

(6) If a company fails to comply with subsection (2) or subsection (3), the company and every officer of the company who is in default shall be liable to a fine for each copy in respect of which default is made.

(7) For the purposes of subsections (5) and (6), a liquidator of the company shall be deemed to be an officer of the company.

149. Where a resolution is passed at an adjourned meeting of:-

- (a) a company;
- (b) the holders of any class of shares in a company;
- (c) the directors of a company,

the resolution shall for all purposes be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date.

150.(1) Anything which in the case of a company may be done:-

- (a) by resolution of the company in general meeting; or
- (b) by resolution of a meeting of any class of members of the company;
- (c) without a meeting and without any previous notice being required, by resolution in writing signed by or on behalf of all the members of the company who at the date of the resolution would be entitled to attend and vote at such meeting;

Provided that nothing in this section shall apply to a resolution passed under section 197 (1) removing a director before the expiry of his period of office or a resolution under section 167 (7) removing an auditor before the expiry of his

term of office.

(2) The signature need not be on a single document provided each is on a document which accurately states the terms of the resolution.

151.(1) Every company shall cause minutes of all proceedings of general meetings all proceedings at meetings of its directors and where there are managers, all proceedings at meetings of its managers to be entered in books kept for that purpose.

(2) Any such minute if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(3) Where minutes have been made in accordance with the provisions of this section of the proceedings at any general meeting of the company or meeting of directors or managers, then until the contrary is proved, the meeting shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had, and all appointments of directors, managers or liquidators shall be deemed to be valid.

(4) If a company fails to comply with subsection (1), the company and every officer of the company who is in default shall be liable to a default fine.

152.(1) The books containing the minutes of proceedings of any general meeting of a company shall be kept at the registered office of the company and shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member without charge.

(2) Any member shall be entitled to be furnished within seven days after he has made a request in that behalf to the company with a copy of any such minutes as aforesaid at such sum as prescribed under Regulations.

(3) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper time, the company and every officer of the company who is in default shall be liable in respect of each offence to a fine.

(4) In the case of any such refusal or default, the court may by order compel an immediate inspection of the books in respect of all proceedings of general meetings or direct that the copies required shall be sent to the persons requiring them.

153.(1) Every company shall keep or cause to be kept in English or Kiswahili proper books of account with respect to:-

(a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes

place;

- (b) all sales and purchases of goods and services by the company;
- (c) the assets and liabilities of the company.

(2) For the purposes of the foregoing subsection, proper books of account shall not be deemed to be kept with respect to the matters aforesaid if there are not kept such books as are necessary to give a true and fair view of the state of the company's affairs and to explain its transactions.

(3) The books of account shall be kept at the registered office of the company or at such other place as the directors think fit, and shall at all times be open to inspection by the directors.

Provided that if books of account are kept at a place outside Zanzibar there shall be sent to and kept at a place in Zanzibar and be at all times open to inspection by the directors such accounts and returns with respect to the business dealt with in the books of account so kept as will disclose with reasonable accuracy the financial position of that business at intervals not exceeding six months and will enable to be prepared in accordance with this Act the company's balance sheet, its profit and loss account or income and expenditure account, and any document annexed to any of those document giving information which is required by this Act and is thereby allowed to be so given.

(4) If any person being a director of a company fails to take all reasonable steps to secure compliance by the company with the requirements of this section, or has by his own wilful act been the cause of any default by the company thereunder, he shall, in respect of each offence, be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding three hundred thousand shillings.

Provided that:-

- (a) in any proceedings against a person in respect of an offence under this section consisting of a failure to take reasonable steps to secure compliance by the company with the requirements of this section, it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that those requirements were complied with and was in a position to discharge that duty; and
- (b) a person shall not be sentenced to imprisonment for such an offence unless, in the opinion of the court dealing with the case, the offence was committed wilfully.

154.(1) A company's first accounting period shall be the period of not less than six months, but not more than eighteen months, beginning with date of

incorporation. Its subsequent accounting period shall be successive periods of twelve months beginning immediately after the end of previous accounting period.

(2) The directors of every company shall prepare individual accounts in each accounting period and in every calendar year lay before the company in general meeting a profit and loss account or, in the case of a company not trading for profit, an income and expenditure account for the period, in the case of the first account, since the incorporation of the company, and, in any other case, since the preceding account, made up to a date not earlier than the date of the meeting by more than nine months, or, in the case of a company carrying on business or having interests abroad, by more than twelve months:

Provided that the Registrar, if for any special reason he thinks fit so to do, may, in the case of any company, extend the period of eighteen months aforesaid, and in the case of any company and with respect to any year extend the periods of nine and twelve months aforesaid.

(3) The directors shall cause to be made out in every calendar year, and to be laid before the company in general meeting, a balance sheet as at the date to which the profit and loss account or the income and expenditure account, as the case may be, is made up.

(4) If any person being a director of a company fails to take all reasonable steps to comply with the provisions of this section, he shall, in respect of each offence, be liable to conviction to imprisonment of a term not exceeding six months or to a fine not exceeding three hundred thousand shillings.

Provide that:-

- (a) in any proceedings against a person in respect of an offence under this section it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that the provisions of this section were complied with and was in a position to discharge that duty; and
- (b) a person shall not be sentenced to imprisonment for such an offence unless, in the opinion of the court dealing with the case, the offence was committed wilfully.

155. (1) Every balance sheet of a company shall give a true and fair view of the state of affairs of the company as at the end of its financial year, and every profit and loss account of a company shall give a true and fair view of the profit or loss of the company for the financial year.

(2) A company's balance sheet and profit and loss account shall comply with the requirements of the Regulations made under this Act, so far as

applicable thereto.

(3) Save as expressly provided in the following provisions of this section or in Part III of the said Seventh Schedule, the requirement of subsections (2) and the said Regulations shall be without prejudice either to the general requirements of subsection (1) of this section or to any other requirements of this Act.

(4) The Registrar may, on the application or with the consent of a company's directors, modify in relation to that company any of the requirements of this Act as to the matters to be stated in a company's balance sheet or profit and loss account (except the requirements of subsection(1) for the purpose of adopting them to the circumstances of the company.

(5) Subsections (1) and (2) shall not apply to a company's profit and loss account if:-

- (a) the company has subsidiaries; and
- (b) the profit and loss account is framed as a consolidated profit and loss account dealing with all or any of the company's subsidiaries as well as the company; and
- (c) complies with the requirements of this Act relating to consolidated profit and loss accounts; and
- (d) shows how much of the consolidated profit or loss for the financial year is dealt with in the accounts of the company.

(6) If any person being a director of a company fails to take all reasonable steps to secure compliance as respects any accounts laid before the company in general meeting with the provisions of this section and with the other requirements of this Act as to the matters to be stated in accounts, he shall, in respect of each offence, be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding three hundred thousand shillings.

Provided that:-

- (a) in any proceedings against a person in respect of an offence under this section, it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that the said provisions or the said other requirements, as the case may be, were complied with and was in a position to discharge that duty; and
- (b) a person shall not be sentenced to imprisonment or any such offence unless, in the opinion of the court dealing with the case,

the offence was committed wilfully.

(7) For the purposes of this section and the following provisions of this Act, except where the context otherwise requires:-

- (a) any reference to a balance sheet or profit and loss account shall include any notes thereon or document annexed thereto giving information which is required by this Act and is thereby allowed to be so given; and
- (b) any reference to a profit and loss account shall be taken, in the case of a company not trading for profit, as referring to its income and expenditure account, and references to profit or to loss and, if the company has subsidiaries, references to a consolidated profit and loss account shall be construed accordingly.

156.(1) Where at the end of its financial year a company has subsidiaries, accounts or statements (in this Act referred to as "group accounts" dealing as hereinafter mentioned with the state of affairs and profit or loss of the company and the subsidiaries shall, subject to subsection (2), be laid before the company in general meeting when the company's own balance sheet and profit and loss account are so laid.

(2) Notwithstanding anything in subsection (1):-

- (a) group accounts shall not be required where the company is at the end of its financial year the wholly owned subsidiary of another body corporate incorporated in Zanzibar; and
- (b) group accounts need not deal with a subsidiary of the company if the company's directors are of opinion that:-
 - (i) it is impracticable, or would be of no real value to members of the company, in view of the insignificant amounts involved, or would involve expense or delay out of proportion to the value to members of the company; or
 - (ii) the result would be misleading, or harmful to the business of the company or any of its subsidiaries; or
 - (iii) the business of the holding company and that of the subsidiary are so different that they cannot reasonably be treated as a single undertaking;

and, if the directors are of such an opinion about each of the company's subsidiaries, group accounts shall not be required,

Provided that the approval of the Registrar shall be required for not dealing in group accounts with a subsidiary on the ground that the result would be harmful

or on the ground of the difference between the business of the holding company and that of the subsidiary.

(3) If any person being a director of a company fails to take all reasonable steps to secure compliance as respects the company with the provisions of this section, he shall, in respect of each offence, be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding three hundred thousand shillings:

Provided that:-

- (a) in any proceedings against a person in respect of an offence under this section, it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that the requirements of this section were complied with and was in a position to discharge that duty; and
- (b) a person shall not be sentenced to imprisonment for an offence under this section unless, in the opinion of the court dealing with the case, the offence was committed wilfully.

(4) For the purposes of this section a body corporate shall be deemed to be the wholly-owned subsidiary of another if it has no members except that other and that other's wholly-owned subsidiaries and its or their nominees.

157.(1) Subject to subsection (2), the group accounts laid before a holding company shall be consolidated accounts comprising:-

- (a) a consolidated balance sheet dealing with the state of affairs of the company and all the subsidiaries to be dealt with in group accounts;
- (b) a consolidated profit and loss account dealing with the profit or loss of the company and those subsidiaries.

(2) If the company's directors are of opinion that it is better for the purpose:-

- (a) of presenting the same or equivalent information about the state of affairs and profit or loss of the company and those subsidiaries; and
- (b) of so presenting it that it may be readily appreciated by the company's members;

the group accounts may be prepared in a form other than that required by subsection (1), and in particular may consist of more than one set of consolidated accounts dealing respectively with the company and one group of subsidiaries and with other groups of subsidiaries or of separate accounts dealing with each of the

subsidiaries, or of statements expanding the information about the subsidiaries in the company's own accounts, or any combination of those forms.

(3) The group accounts may be wholly or partly incorporated in the company's own balance sheet and profit and loss account.

158.(1) The group accounts laid before a company shall give a true and fair view of the state of affairs and profit or loss of the company and the subsidiaries dealt with thereby as a whole, so far as concerns members of the company.

(2) Where the financial year of a subsidiary does not coincide with that of the holding company, the group accounts shall, unless the Registrar on the application or with the consent of the holding company's directors otherwise direct, deal with the subsidiary's state of affairs as at the end of its financial year ending with or last before that of the holding company, and with the subsidiary's profit or loss for that financial year.

(3) Without prejudice to subsection (1), the group accounts, if prepared as consolidated accounts, shall comply with the requirements of the Regulations made under this Act, so far as applicable thereto, and if not so prepared shall give the same or equivalent information:

Provided that the Registrar may, on the application or with the consent of a company's directors, modify the said requirements in relation to that company for the purpose of adapting them to the circumstances of the company.

159.(1) A holding company's directors shall secure that except where in their opinion there are good reasons against it the financial year of each of its subsidiaries shall coincide with the company's own financial year.

(2) Where it appears to the Registrar desirable for a holding company or a holding company's subsidiary to extend its financial year so that the subsidiary's financial year may end with that of the holding company, and for that purpose to postpone the submission of the relevant accounts to a general meeting from one calendar to the next, the Registrar may on the application or, with the consent of the directors of the company whose financial year is to be extended direct that, in the case of that company, the submission of accounts to a general meeting, the holding of an annual general meeting or the making of an annual return shall not be required in the earlier of the said calendar years.

160.(1) For the purposes of this Act, a company shall, subject to the provisions of subsection (3), be deemed to be a subsidiary of another if:-

(a) that other either:-

(i) is a member of it and controls the composition of its board of directors; or

(ii) holds more than half in nominal value of its equity share capital; or

(b) the first-mentioned company is a subsidiary of any company which is that other's subsidiary.

(2) For the purposes of the foregoing subsection, the composition of a company's board of directors shall be deemed to be controlled by another company if, but only if, that other company by the exercise of some power exercisable by it without the consent or concurrence of any other person can appoint or remove the holders of all or a majority of the directorship; but for the purposes of this provision that other company shall be deemed to have power to appoint to a directorship with respect to which any of the following conditions is satisfied, that is to say:-

- (a) that a person cannot be appointed thereto without the exercise in his favour by that other company of such a power as aforesaid; or
- (b) that a person's appointment thereto follows necessarily from his appointment as director of that other company; or
- (c) that the directorship is held by that other company itself or by a subsidiary of it.

(3) In determining whether one company is a subsidiary of another:-

- (a) any shares held or power exercisable by that other in a fiduciary capacity shall be treated as not held or exercisable by it;
- (b) subject to the two following paragraphs, any shares held or power exercisable:-
 - (i) by any person as a nominee for that other (except where that other is concerned only in a fiduciary capacity); or
 - (ii) by, or by a nominee for, a subsidiary of that other, not being a subsidiary which is concerned only in a fiduciary capacity; shall be treated as held or exercisable by that other;
- (c) any shares held or power exercisable by any person by virtue of the provisions of any debentures of the first mentioned company or of a trust deed for securing any issue of such debentures shall be disregarded;
- (d) any shares held or power exercisable by, or by a nominee for, that other or its subsidiary (not being held or exercisable as mentioned in paragraph (c)) shall be treated as not held or exercisable by that other if the ordinary business of that other or its subsidiary, as the case may be, includes the lending of money and the shares are held or power is exercisable as aforesaid by way of security only for the purposes of a transaction entered

into in the ordinary course of that business.

(4) For the purposes of this Act, a company shall be deemed to be another's holding company if, but only if, that other is its subsidiary.

(5) In this section the expression "company" includes anybody corporate, and the expression "equity share capital" means, in relation to a company, its issued share capital excluding any part thereof which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution.

161.(1) Every balance sheet of a company shall be signed on behalf of the Board by two directors of the company, or, if there is only one director, by that director.

(2) In case of a banking company the balance sheet must be signed by the Secretary or Manager, if any, and where there are more than three directors of the company by at least three of those directors, and where there are not more than three directors by all the directors.

(3) When the total number of directors of the company for the time being in Zanzibar is less than the number of directors whose signatures are required by this section, the balance sheet shall be signed by all the directors for the time being in Zanzibar or, if there is only one director for the time being in Zanzibar, by such director, but in any such case there shall be subjoined to the balance sheet a statement signed by such directors or director explaining the reason for non-compliance with the provisions of this section.

(4) If any copy of a balance sheet which has not been signed as required by this section is issued, circulated or published, the company and every officer of the company who is in default shall be liable to a fine.

162.(1) The profit and loss account and, so far as not incorporated in the balance sheet or profit and loss account, any group accounts laid before the company in general meeting, shall be annexed to the balance sheet, and the auditors' report shall be attached thereto.

(2) Any accounts so annexed shall be approved by the board of directors before the balance sheet is signed on their behalf.

(3) If any copy of a balance sheet is issued, circulated or published without having annexed thereto a copy of the profit and loss account or any group accounts required by this section to be, so annexed, or without having attached thereto a copy of the auditors' report, the company and every officer of the company who is in default shall be liable to a fine.

163.(1) There shall be attached to every balance sheet laid before a company in general meeting a report by the directors with respect to the state of the company's affairs, the amount, if any, which they recommend should be paid by

way of dividend, and the amount, if any, which they propose to carry to reserves within the meaning of the Regulations made under this Act.

(2) The said report shall deal, so far as is material for the appreciation of the state of the company's affairs by its members and will not in the directors' opinion be harmful to the business of the company or of any of its subsidiaries, with any change during the financial year in the nature of the company's business, or in the company's subsidiaries, or in the classes of business in which the company has an interest, whether as member of another company or otherwise.

(3) If any person being a director of a company fails to take all reasonable steps to comply with the provisions of subsection (1), he shall in respect of each offence, be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding three hundred thousand shillings.

Provided that:-

- (a) in any proceedings against a person in respect of an offence under subsection (1), it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that the provisions of that subsection were complied with and was in a position to discharge that duty; and
- (b) a person shall not be liable to be sentenced to imprisonment for such an offence unless, in the opinion of the court dealing with the case, the offence was committed wilfully.

164.(1) A copy of every balance sheet, including every document required by law to be annexed thereto, which is to be laid before a company in general meeting, together with a copy of the auditors' report, shall, not less than twenty one days before the date of the meeting, be sent to every member of the company (whether he is or is not entitled to receive notices of general meetings of the company), every holder of debentures of the company (whether he is or is not so entitled) and all persons other than members or holders of debentures of the company, being persons so entitled.

Provided that:-

- (a) in the case of a company not having a share capital this subsection shall not require the sending of a copy of the documents aforesaid to a member of the company who is not entitled to receive notices of general meetings of the company or to a holder of debentures of the company who is not so entitled;
- (b) This subsection shall not require a copy of those documents to be sent:-

- (i) to a member of the company or a holder of debentures of the company, being in either case a person who is not entitled to receive notices of general meetings of the company and of whose address the company is unaware;
 - (ii) to more than one of the joint holders of any shares or debentures none of whom are entitled to receive such notices; or
 - (iii) in the case of joint holders of any shares or debentures some of whom are and some of whom are not entitled to receive such notices, to those who are not so entitled; and
- (c) if the copies of the documents aforesaid are sent less than twenty one days before the date of the meeting, they shall, notwithstanding that fact, be deemed to have been duly sent if it is so agreed by all the members entitled to attend and vote at the meeting.

(2) Any member of a company, whether he is or is not entitled to have sent to him copies of the company's balance sheets, and any holder of debentures of the company, whether he is or is not so entitled, shall be entitled to be furnished on demand without charge with a copy of the last balance sheet of the company, including every document required by law to be annexed thereto, together with a copy of the auditors' report on the balance sheet.

(3) If default is made in complying with subsection (1), the company and every officer of the company who is in default shall be liable to a fine, and if, when any person makes a demand for any document with which he is by virtue of subsection (2) entitled to be furnished, default is made in complying with the demand within seven days after the making thereof, the company and every officer of the company who is in default shall be liable to a default fine, unless it is proved that that person had already made a demand for and been furnished with a copy of the document.

165.(1) Every company shall at each annual general meeting appoint an auditor to hold office from the conclusion of that, until the conclusion of the next annual general meeting.

(2) At any annual general meeting, a retiring auditor, however appointed, shall be reappointed without any resolution being passed unless:-

- (a) he is not qualified for reappointment; or
- (b) a resolution has been passed at the meeting appointing somebody instead of him or providing expressly that he shall not be reappointed; or
- (c) he has given the company notice in writing of his unwillingness to be reappointed.

Provided that, where notice is given on an intended resolution to appoint some person or persons in place of retiring auditor, and by reason of the death, in capacity or disqualification of that person or of all those person, as the case may be, the resolution cannot be proceeded with, the retiring auditor shall not be automatically reappointed by virtue of this subsection.

(3) Where at an annual general meeting no auditors are appointed or reappointed, the Registrar may appoint a person to fill the vacancy.

(4) The company shall, within one week of the date on which the courts power under subsection (3) became exercisable, give the Registrar notice of that fact, and, if a company fails to give notice as required by this subsection, the company and every officer of the company who is in default shall be liable to a default fine.

(5) Subject as hereinafter provided the first auditors of a company may be appointed by the directors at any time before the first annual general meeting and auditors so appointed shall hold office until the conclusion of that meeting.

Provided that:-

(a) the company may at a general meeting remove any such auditors and appoint in their place any other person who have been nominated for appointment by any member of the company and of whose nomination notice has been given to the members of the company not less than fourteen days before the date of the meeting; and

(b) if the directors fail to exercise their powers under this subsection, the company in general meeting may appoint the first auditors, and thereupon the said powers of the directors shall cease.

(6) The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues, the surviving or continuing auditor or auditors, if any, may act.

(7) The remuneration of the auditors of a company:-

(a) in the case of an auditor appointed by the directors or by the Registrar, may be fixed by the directors or by the Registrar as the case may be;

(b) subject to the paragraph (a), shall be fixed by the company in general meeting or in such manner as the company in general meeting may determine.

For the purposes of this subsection, any sums paid by the company in respect of the auditors' expenses shall be deemed to be included in the expression 'remuneration'.

166.(1) Special notice shall be required for a resolution at a company's annual general meeting appointing as auditor a person other than a retiring auditor or providing expressly that a retiring auditor shall not be reappointed.

(2) On receipt of notice of such an intended resolution as aforesaid, the company shall forthwith send a copy thereof to the retiring auditor (if any).

(3) Where notice is given of such an intended resolution as aforesaid and the retiring auditor makes with respect to the intended resolution representations in writing to the company (not exceeding a reasonable length) and requests their notification to members of the company, the company shall, unless the representations are received by it too late for it to do so:-

- (a) in any notice of the resolution given to members of the company, state the fact of the representations having been made; and
- (b) send a copy of the representations to every member of the company to whom notice of the meeting is sent (whether before or after receipt of the representations by the company); and
- (c) if a copy of the representations is not sent as aforesaid because received too late or because of the company's default, the auditor may (without prejudice to his right to be heard orally) require that the representations shall be read out at the meeting.

Provided that copies of the representations need not be sent out and the representations need not be read out at the meeting if, on the application either of the company or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter; and the court may order the company's auditor, notwithstanding that he is not a party to the application.

(4) Subsection (3) shall apply to a resolution to remove the first auditors by virtue of section 165(5) as it applies in relation to a resolution that a retiring auditor shall not be reappointed.

167.(1) A person shall not be qualified for appointment as auditor of a company unless he possesses such qualifications as may from time to time prescribed by regulations made under this section by the Minister in consultation with the Minister responsible for finance for the time being.

Provided that this subsection shall not apply in the case of a private company which at the time of the auditor's appointment is an exempt private company.

(2) The following persons shall not be qualified for appointment as auditor of a company:-

- (a) an officer or servant of the company;
- (b) a person who is a partner of or in the employment of an officer or

servant of the company;

(c) a body corporate.

Provided that paragraph (b) if this subsection shall not apply in the case of a private company which at the time of the auditor's appointment is an exempt private company.

Reference in this subsection to an officer or servant shall be construed as not including references to an auditor.

(3) A person shall also not be qualified for appointment as auditor of a company if he is, by virtue of subsection (2), disqualified for appointment as auditor of any other body corporate which is that company's subsidiary or holding company or a subsidiary of that company's holding company, or would be so disqualified if the body corporate were a company.

(4) Anybody corporate which acts as auditor of a company shall be liable to a fine.

168.(1) The auditors shall make a report to the members on the accounts examined by them, and on every balance sheet, every profit and loss account and all group accounts laid before the company in general meeting during their tenure of office, and the report shall contain statements as to the matters mentioned in the Regulations made under this Act.

(2) The auditors' report shall be read before the company in general meeting and shall be open to inspection by any member.

(3) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the officers of the company such information and explanation as he thinks necessary for the performance of the duties of the auditors.

(4) The auditors of a company shall be entitled to attend any general meeting of the company and to receive all notices of and other communications relating to any general meeting which any member of the company is entitled to receive and to be heard at any general meeting which they attend on any part of the business of the meeting which concerns them as auditors.

169. References in this Act to a document annexed or required to be annexed to a company's accounts or any of them shall not include the directors' report or the auditors' report:

Provided that any information which is required by this Act to be given in accounts, and is thereby allowed to be given in a statement annexed, may be given in the directors' report instead of in the accounts and, if any such information is so given, the report shall be annexed to the accounts and this Act shall apply in relation thereto accordingly except that the auditors shall report thereon only so far as it gives the said information.

170.(1) Where the Registrar on perusal of any document which a company is required to submit to him under the provisions of this Act is of the opinion that any information is necessary in order that such document may afford full particulars of the matter to which it purports to relate, he may by a written order call on the company submitting the document to furnish in writing such information or explanation within such time as he may specify in his order.

(2) On receipt of an order under subsection (1), it shall be the duty of all persons who are or have been officers of the company to furnish such information or explanation to the best of their power.

(3) If any such person refuses or neglects to furnish any such information or explanation he shall be liable to a fine in respect of each offence.

(4) If such information or explanation is not furnished within the specified time, or if after perusal of such information or explanation the Registrar is of opinion that the document in question discloses an unsatisfactory state of affairs, or that it does not disclose a full and fair statement of the matters to which it purports to relate, the Registrar shall report the circumstances of the case in writing to the court.

171.(1) The court may appoint one or more competent inspectors to investigate the affairs of a company and to report thereon in such manner as the court directs in case of:-

- (a) a company having a share capital, on the application either of not less than one hundred members or of members holding not less than one-tenth of the shares issued; or
- (b) a company not having a share capital, on the application of not less than one fifth in number of the persons on the company's register of members; or
- (c) on application by the company.

(2) The application shall be supported by such evidence as the court may require for the purpose of showing that the applicants have good reason for requiring the investigation, and the court may, before appointing an inspector, require the applicants to give security for payment of the costs of the investigation.

172. Without prejudice to its powers under section 171 the court shall appoint one or more competent inspectors to investigate the affairs of a company and to report thereon in such manner as the court directs, if the company by special resolution declares that its affairs ought to be investigated by an inspector appointed by the court;

- (a) may do so, if it appears to the court upon a report from the Registrar that there are circumstances suggesting:-

- (i) that the company's business is being conducted with intent to defraud its creditors or the creditors of any other person or otherwise for a fraudulent or unlawful purpose, or in a manner oppressive of any part of its members, or that it was formed for any fraudulent or unlawful purpose; or
- (ii) that persons concerned with its formation or the management of its affairs have in connection therewith been guilty of fraud, misfeasance or other misconduct towards it or towards its members; or
- (iii) that its members have not been given all the information with respect to its affairs which they might reasonably expect; or
- (iv) that it is desirable to do so; and

(b) may do so on receipt of a report from the Registrar under section 170.

173. If an inspector appointed under either of sections 171 and 172 to investigate the affairs of a company thinks it necessary for the purposes of his investigation to investigate also the affairs of any other body corporate which is or has at any relevant time been the company's subsidiary or parent company or a subsidiary of its parent company or a parent company of its subsidiary, he shall have power so to do, and shall report on the affairs of the other body corporate so far as he thinks the results of his investigation thereof are relevant to the investigation of the affairs of the first mentioned company.

174.(1) It shall be the duty of all officers and agents of the company and of all officers and agents of any other body corporate whose affairs are investigated by virtue of section 173 to produce to any inspector all books and documents of or relating to the company or, as the case may be, the other body corporate which are in their custody or power, to attend before the inspector when required to do so and otherwise to give to the inspector all assistance in connection with the investigation which they are reasonably able to give.

(2) If the inspector considers that an officer or agent of the company or other body corporate or any other person is or may be in possession of information relating to a matter which they believe to be relevant to the investigation, they may require him:-

- (a) to produce to the inspector any documents in its custody or power relating to that matter;
- (b) Attend before the inspectors;
- (c) Otherwise to give to the inspector all assistance in connection with the investigation which he is reasonably able to give.

(3) An inspector may examine on oath the officers and agents of the company or other body corporate in relation to its business, and may administer an oath accordingly.

(4) If any officer or agent of the company or other body corporate refuses to produce to an inspector any book or document which it is his duty under this section to produce, or refuses to attend before the inspector when required to do so, or refuses to answer any question which is put to him by an inspector with respect to the affairs of the company or other body corporate, as the case may be, the inspector may certify the refusal under his hand to the court, and the court may thereupon inquire into the case, and after hearing any witnesses who may be produced against or on behalf of the alleged offender and after hearing any statement which may be offered in defence, punish the offender in like manner as if he had been guilty of contempt of court.

(5) If an inspector thinks it necessary for the purpose of his investigation that a person whom he has no power to examine on oath should be so examined, he may apply to the court and the court may if it sees fit order that person to attend and be examined on oath before it on any matter relevant to the investigation, and on any such examination:-

- (a) the inspector may take part therein either personally or by advocate;
- (b) the court may put such questions to that person examined as the court thinks fit;
- (c) the person examined shall answer all such questions as the court may put or allow to be put to him, but may at his own cost employ an advocate, who shall be at liberty to put to him such questions as the court may deem just for the purpose of enabling him to explain or qualify any answers given by him,

and notes of the examination shall be taken down in writing and shall be read over to or by, and signed by the person examined, and may thereafter be used in evidence against him;

Provided that, notwithstanding anything in paragraph (c) of this subsection, the court may allow the person examined such costs as in its discretion it may think fit, and any costs so allowed shall be paid as part of the expenses of the investigation.

(6) In this section any reference to officers or agents shall include past, as well as present, officers or agents, as the case may be, and for the purposes of this section the expression 'agents', in relation to a company or other body corporate shall include the bankers and advocates of the company or other body corporate and any persons employed by the company or other body corporate as auditors, whether those persons are or are not officers of the company or other body corporate.

175.(1) An inspector may, and, if so directed by the court, shall make interim reports to the court, and on the conclusion of the investigation shall make a final report to the court; and such report shall be written or, if the court so directs, printed.

(2) The court shall order that a copy of any report be forwarded to the Minister and may, in its discretion, order that a copy of any report be forwarded:-

- (a) to the company;
- (b) on request and on payment of the prescribed fee to any other person who is a member of the company or of any other body corporate as above appear to the court to be affected, or whose conduct is referred to in the report;
- (c) on request to the applicants for the investigation;
- (d) to the auditors of the company or body corporate as the case may be, and may also cause the report to be printed and published.

176.(1) If from any report made under section 175, it appears to the court that any person has, in relation to the company or to anybody corporate whose affairs have been investigated by virtue of section 173 been guilty of any offence for which he is criminally liable, the court shall forward a copy of the report to the Director of Public Prosecutions, and if the Director of Public Prosecutions considers that the case is one in which a prosecution ought to be instituted, he shall institute proceedings accordingly, and it shall be the duty of all officers and agents of the company, past and present (other than the defendant in the proceedings) to give him all assistance in connection with the prosecution which they are reasonably able to give, section 174 (5) shall apply for the purposes of this subsection as it applies for the purposes of that section.

(2) If, in the case of any body corporate that may be wound up under this Act, it appears to the Director of Public Prosecutions, from any such report as above that it is expedient so to do by reason of any such circumstances as are referred to in subparagraphs (i) or (ii) of paragraph (b) of section 172, the Attorney General may, unless the body corporate is already being wound up by the court, present a petition for it to be so wound up if the court thinks it just and equitable that it should be wound up or a petition for an order under section 172 or both.

(3) If from any report made or information obtained under this Part it appears to the Attorney-General that any civil proceedings ought in the public interest to be brought by any body corporate, he may himself bring proceedings for that purpose in the name of the body corporate.

(4) The Minister shall indemnify the body corporate against any costs or

expenses incurred by it in or in connection with any proceedings brought by virtue of subsection (3).

177.(1) The expenses of and incidental to an investigation by an inspector appointed by the court under this Act shall be defrayed in the first instance by the Government, but the following persons shall, to the extent mentioned, be liable to repay the Government:-

- (a) any person who is convicted on a prosecution instituted by the Director of Public Prosecutions as a result of the investigation or who is ordered to pay damages or restore any property in proceedings brought by virtue of section 176(3), may in the same proceedings be ordered to pay the said expenses to such extent as may be specified in the order.
- (b) any body corporate in whose name proceedings are brought as above shall be liable to the amount or value of any sums or property recovered by it as a result of those proceedings; and any amount for which a body corporate is liable by virtue of this paragraph shall be first charge on the sums or property recovered;
- (c) Unless as a result of the investigation a prosecution is instituted by the Director of Public Prosecutions:-
 - (i) any body corporate dealt with by the report, where the inspector was appointed otherwise than under section 172(b), shall be liable, except so far as the court otherwise directs;
 - (ii) the applicants for the investigation, where the inspector was appointed under section 171, shall be liable to such extent (if any) as the court directs.

(2) The report of an inspector appointed otherwise than under section 171(b), may, if he thinks fit, and shall, if the court so directs, include a recommendation as to the directions (if any), which he thinks appropriate, in the light of his investigation, to be given under subsection 1 (c).

(3) For the purposes of this section, any costs or expenses incurred by the Director of Public Prosecutions in or in connection with proceedings brought by virtue of section 176(3) (including expenses incurred by the Government by virtue of subsection (4) thereof) shall be treated as expenses of the investigation giving rise to the proceedings.

(4) Any liability to repay the Minister imposed by subsections (1)(a) and (1)(b) shall, subject to satisfaction of the Minister's right to repayment, be a liability also to indemnify all persons against liability under subsection (1)(c); and any such liability imposed by subsection (1)(a) shall, subject as aforesaid, be a liability under subsection (1)(c); and any person liable under subsection

(1)(a) or (1)(b) or either subparagraph (i) or (ii) of subsection (1)(c) shall be entitled to contribution from any other person liable under the same subsection or subparagraph, as the case may be, according to the amount of their respective liabilities thereunder.

178. A copy of any report of an inspector appointed under the foregoing provisions of this Act shall be admissible in any legal proceedings as evidence of the opinion of the inspector in relation to any matter contained in the report.

179. Rules and guidelines may be made by the Minister for the time being responsible for Finance, or by the Capital Markets and Securities or such other authority designated for the purpose, for the investigation of the ownership of any company or any shares or debentures or for the purpose of determining the true persons who are or have been financially interested in the success or failure of the company or able to control or materially to influence its policy.

180.(1) An officer of a company who destroys, mutilates, falsifies or is privy to the destruction, mutilation or falsification of a document affecting or relating to the company's property or affairs, or makes or is privy to the making of a false entry in such a document, commits an offence, unless he proves that he had no intention to conceal the state of affairs of the company or defeat the law.

(2) Such a person as above mentioned, who fraudulently either parts with, alters or makes an omission in any document or is privy to fraudulent parting with, fraudulent altering or fraudulent making of an omission in, any such document, commits an offence.

(3) A person guilty of an offence under this section is liable to imprisonment terms not exceeding three years or a fine not exceeding two million shillings or both.

(4) In this section, "document" includes information recorded in any form.

181. Nothing in the foregoing provisions of this Part shall require disclosure to the court or to the Registrar or to an inspector appointed by the Court or the Registrar:-

(a) by an advocate of any privileged communication made to him in that capacity, except as respects the name and address of his client; or

(b) by a company's bankers of any information as to the affairs of any of their customers other than the company.

182.(1) The provisions of this Part shall apply to foreign companies and bodies corporate incorporated outside Zanzibar that have at any time carried on business in Zanzibar, as they apply to companies incorporated under this Act,

but subject to the exceptions provided in subsection (2).

(2) The following provisions do not apply to foreign companies and bodies corporate mentioned in subsection (1):-

- (a) section 171(1)(a) and (c) (inspections ordered on the application of the company or its members);
- (b) section 176(3) (power to bring civil proceedings on the companies' behalf).

(3) The Minister may make regulations applying any provisions of this Part to foreign companies or other bodies mentioned in subsection (1) subject to modifications as may be specified therein.

183.(1) Subject to this section, a company shall, in general meeting, declare dividends in respect of any accounting period or other period.

(2) Where the recommendation of the directors of a company with respect to the declaration of a dividend is rejected or varied by the company in general meeting, a statement to that effect shall be included in the relevant directors' annual report and in the relevant annual return.

(3) A Company may pay a dividend:-

- (a) out of its realized profits less its realized losses; or
- (b) out of its realized revenue profits less its revenue losses, whether realized or unrealized.

Provided the directors reasonably believe that immediately after the dividend has been paid the company will be able to discharge its liabilities as they fall due, and the realizable value of the company's assets will not be less than the amount of its liabilities.

(4) A company shall not declare or pay a dividend if there are reasonable grounds for believing that

- (a) the corporation is, or would after the payment be, unable to pay its liabilities as they become due; or
- (b) the realizable value of the corporation's assets would thereby be less than the aggregate of its liabilities and stated capital of all classes.

(5) Notwithstanding anything in this section, an open ended investment company may pay such dividends as may be made by the Minister for the time being responsible for Finance.

184. Subject to any modifications, exceptions, or limitations contained in this Act or in the company's articles, the directors of a company have all the

powers necessary for managing, and for directing and supervising the management of the business affairs of a company.

185.(1) Subject to this section, a director of a company, when exercising powers of performing duties, must act honestly and in good faith and in what the director believes to be the best interest of the company.

(2) A director of a company that is a wholly-owned subsidiary may, when exercising powers or performing duties as a director, if expressly permitted to do so by the articles of the company, act in a manner which he believes is in the best interests of the company's holding company even though it may not be in the best interests of the company.

(3) A director of a company that is a subsidiary (but not a wholly-owned subsidiary) may, when exercising powers or performing duties as a director, if expressly permitted to do so by the articles of the company and with the prior agreement of the shareholders (other than its holding company), act in a manner which he believes is in the best interests of that company's holding company even though it may not be in the best interest of the company.

(4) A director of a company incorporated to carry out a joint venture between the shareholders may, when exercising powers or performing duties as director in connection with the carrying out of the joint venture, act in a manner which he believes is the best interests of a shareholder or shareholders, even though it may not be in the best interests of the company.

186.(1) The matters to which the directors of the company are to have regard in the performance of their functions include, in addition to the interests of the members, the interests of the company's employees.

(2) The duty imposed by this section on the directors is owed by them to the company and is enforceable in the same way as any other fiduciary duty owed to a company by its directors.

187. A director shall exercise his powers for proper purposes.

188. A director owes the company a duty to exercise the care, skill and diligence which would be exercised in the same circumstances by a reasonable person having both:-

- (a) the knowledge and experience that may reasonably be expected of a person in the same position as the director; and
- (b) any special knowledge and experience which the director has.

189.(1) Every company, except a single member private company, shall have at least two Directors.

(2) The single member private company shall always have the single member as a director but it, may have such number of other director.

190.(1) Every company shall have a Secretary.

(2) Anything required or authorised to be done by or to the secretary may, if the office is vacant or there is for any other reason no secretary capable of acting, be done by or to any assistant or deputy secretary or, if there is no assistant or deputy secretary capable of acting, by or to any officer of the company authorised generally or specially in that behalf by the directors.

(3) The secretary shall be appointed at the time of incorporation and subsequently on the same day or the day next following his resignation or removal or in case of his death within seven days of the event.

191. The single member shall not be in any case, a secretary to the company.

192. A provision requiring or authorizing a thing to be done by or to a director and the secretary shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of the secretary.

193. The acts of a director or manager shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification.

194.(1) A person shall not be capable of being appointed director of a company by the articles, and shall not be named as a director or proposed director of a company in a prospectus issued by or on behalf of the company, or as proposed director of an intended company in a prospectus issued in relation to that intended director of an intended company in a prospectus issued in relation to that intended company, or in a statement in lieu of prospectus delivered to the Registrar by or on behalf of a company, unless, before the registration of the articles or the publication of the prospectus or the delivery of the statement in lieu of prospectus, as the case may be, he has by himself or by his agent authorized in writing:-

(a) signed and delivered to the Registrar for registration a consent in writing to act as such director; and

(b) either:-

(i) signed the memorandum for a number of shares not less than his qualification, if any; or

(ii) taken from the company and paid or agreed to pay for his qualification shares, if any; or

(iii) signed and delivered to the Registrar for registration an undertaking in writing to take from the company and pay for his qualification shares, if any; or

(iv) made and delivered to the Registrar for registration a statutory declaration to the effect that a number of shares, not less than his qualification, if any, are registered in his name.

(2) Where a person has signed and delivered as aforesaid an undertaking to take and pay for his qualification shares, he shall, as regards those shares, be in the same position as if he had signed the memorandum for that number of shares.

(3) References in this section to the share qualification of a director or proposed director shall be construed as including only a share qualification required on appointment or within a period determined by reference to the time of appointment, and references therein to qualification shares shall be construed accordingly.

(4) On the application for registration of the memorandum and articles of a company, the applicant shall deliver to the Registrar a list of the persons who have consented to the directors of the company, and, if this list contains the name of any person who has not so consented, the applicant shall be liable to a fine.

(5) This section shall not apply to:-

(a) a company not having a share capital; or

(b) a private company;

(c) a company which was a private company before becoming a public company; or

(d) a single shareholder company; or

(e) a prospectus issued by or on behalf of a company after the expiration of one year from the date on which the company was entitled to commence business.

195.(1) Without prejudice to the restrictions imposed by section 194, it shall be the duty of every director who is by the articles of the company required to hold a specified share qualification, and who is not already qualified, to obtain his qualification within two months after his appointment, or such shorter time as may be fixed by these articles.

(2) For the purpose of any provision in the articles requiring a director or manager to hold a specified share qualification, the bearer of a share warrant

shall not be deemed to be the holder of the share specified in the warrant.

(3) The office of director of a company shall be vacated if the director does not within two months from the date of his appointment, or within such shorter time as may be fixed by the articles, obtain his qualification, or if after the expiration of the said period or shorter time he ceases at any time to hold his qualification.

(4) A person vacating office under this section shall be incapable of being reappointed director of the company until he has obtained his qualification.

(5) If after the expiration of the said period or shorter time any unqualified person acts as a director of the company, he shall be liable to a fine for every day between the expiration of the said period or shorter time or the day on which he ceased to be qualified, as the case may be, and the last day on which it is proved that he acted as a director.

196.(1) At a general meeting of a company other than a private company, a motion for the appointment of two or more persons as directors of the company by a single resolution shall not be made, unless a resolution that it shall be so made has first been agreed to by the meeting without any vote being given against it.

(2) A resolution moved in contravention of this section shall be void whether or not its being so moved was objected to at the time:

Provided that:-

- (a) this subsection shall not be taken as excluding the operation of section 194; and
- (b) where a resolution so moved is passed, no provision for the Automatic reappointment of retiring directors in default of another appointment shall apply.

(3) For the purposes of this section, a motion for approving a person's appointment or for nominating a person for appointment shall be treated as a motion for his appointment.

(4) Nothing in this section shall apply to a resolution altering the company's articles.

197.(1) A company may by ordinary resolution remove a director before the expiration of his period of office, notwithstanding anything; in its articles or any agreement between it and him.

(2) Special notice shall be required of any resolution to remove a director under this section or to appoint somebody instead of a director so removed at the meeting at which he is removed, and on receipt of notice of an

intended resolution to remove a director under this section the company shall forthwith send a copy thereof to the director concerned, and the director (whether or not he is a member of the company) shall be entitled to be heard on the resolution at the meeting.

(3) Where notice is given of an intended resolution to remove a director under this section and the director concerned makes with respect thereto representations in writing to the company (not exceeding a reasonable length) and requests their notification to members of the company, the company shall, unless the representations are received by it too late for it to do so:-

- (a) in any notice of the resolution given to members of the company state the fact of the representations' having been made; and
- (b) send a copy of the representations to every member of the company to whom notice of the meeting is sent (whether before or after receipt of the representations by the company);

and if a copy of the representations is not sent as aforesaid because received too late or because of the company's default, the director may (without prejudice to his right to be heard orally) require that the representations shall be read out at the meeting.

Provided that copies of the representations need not be sent out and the representations need not be read out at the meeting, if on the application either of the company or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter; and the court may order the company's costs on an application under this section to be paid in whole or in part by the director, notwithstanding that he is not a party to the application.

(4) A vacancy created by the removal of a director under this section, if not filled at the meeting at which he is removed, may be filled as a casual vacancy.

(5) A person appointed director in place of a person removed under this section shall be treated, for the purpose of determining the time at which he or any other director is to retire, as if he had become director on the day on which the person in whose place he is appointed was last appointed a director.

(6) Nothing in this section shall be taken as depriving a person removed thereunder of compensation or damages payable to him in respect of the termination of his appointment as director or of any appointment terminating with that as director or as derogating from any power to remove a director which may exist apart from this section.

198.(1) Subject to the provisions of this section, no person shall be capable of being appointed a director of a company which is subject to this section if at

the time of his appointment he had not attained the age of twenty one or has attained the age of seventy.

(2) Subject as aforesaid, a director of a company which is subject to this section shall vacate his office at the conclusion of the annual general meeting commencing next after he attains the age of seventy:

Provided that acts done by a person as director shall be valid notwithstanding that it is afterwards discovered that his appointment had terminated by virtue of this subsection.

(3) where a person retires by virtue of subsection (2), no provision for the automatic appointment of retiring directors in default of another appointment shall apply; and if at the meeting at which he retires the vacancy is not filled it may be filled as a casual vacancy.

(4) Nothing in the foregoing provisions of this section shall prevent the appointment of a director at any age, above the age of eighteen or require a director to retire at any time, if his appointment is or was made or approved by the company in general meeting, but special notice shall be required of any resolution appointing or approving the appointment of a director for it to have effect for the purposes of this subsection and the notice thereof given to the company and by the company to its members must state or must have stated the age of the person to whom it relates.

(5) A person reappointed as director on retiring by virtue of subsection (2) of this section, or appointed in place of a director so retiring, shall be treated, for the purpose of determining the time at which he or any other director is to retire, as if he had become director on the day on which the retiring director was last appointed before his retirement; but, except as provided by this subsection, the retirement of a director out of turn by virtue of the said subsection (2) shall be disregarded in determining when any other directors are to retire.

(6) A company shall be subject to this section if it is not a private company or if, being a private company, it is the subsidiary of a body corporate incorporated in Zanzibar which is not a private company; and for the purposes of any other section of this Act which refers to a company subject to this section, a company shall be deemed to be subject to this section, a company shall be deemed to be subject to this section notwithstanding that all or any of the provisions thereof are excluded or modified by the company's articles.

199.(1) Any person who is appointed or to his knowledge proposed to be appointed director of a company subject to section 198 at a time when he has attained any retiring age applicable to him as director either under this Act or under the company's articles shall give notice of his age to the company.

Provided that this subsection shall not apply in relation to a person's reappointment on the termination of a previous appointment as director of the

company.

(2) Any person who:-

- (a) fails to give notice of his age as required by this section; or
- (b) acts as director under any appointment which is invalid or has terminated by reason of his age; shall be liable to a fine for every day during which the failure continues or during which he continues to act as aforesaid.

(3) For the purposes of subsection (2), a person who has acted as director under an appointment which is invalid or has terminated shall be deemed to have continued so to act throughout the period from the invalid appointment or the date on which the appointment terminated, as the case may be, until the last day on which he is shown to have acted thereunder.

200.(1) If any person being an un-discharged bankrupt acts as director of, or directly or indirectly taken part in or is concerned in the management of, any company except with the leave of the court by which he was adjudged bankrupt, he shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine not exceeding one million or both.

(2) The leave of the court for the purposes of this section shall not be given unless notice of intention to apply thereof has been served on the official receiver, and it shall be the duty of the official receiver, if he is of opinion that it is contrary to the public interest that any such application should be granted, to attend on the hearing of and oppose the granting of the application.

(3) In this section, the expression "company" includes an unregistered company and a company incorporated outside Zanzibar which has an established place of business within Zanzibar, and the expression "official receiver" means an official receiver in bankruptcy and includes an official assignee appointed under the Insolvency Act.

201.(1) Where:-

- (a) a person is convicted of any offence in connection with the promotion, formation or management of a company; or
- (b) in the course of winding up a company, it appears that a person
 - (i) has been guilty, for which he is liable (whether he has been convicted or not) for fraudulent trading; or
 - (ii) has otherwise been guilty, while an officer of the company, of any fraud in relation to the company or of any breach of his duty to the company;

the court may make an order that person shall not, without

the leave of the court, be a director of or in any way, whether directly or indirectly, be concerned or take part in the management of a company for such period not exceeding five years as may be specified in the order.

(2) In the foregoing subsection the expression "the court", in relation to the making of an order against any person by virtue of paragraph (a) thereof, includes the court before which he is convicted, as well as any court having jurisdiction to wind up the company, and in relation to the granting of leave means any court having jurisdiction to wind up the company as respects which leave is sought.

(3) A person intending to apply for the making of an order under this section by the court having jurisdiction to wind up a company, shall give not less than ten days' notice of his intention to the person against whom the order is sought, and on the hearing of the application, the last-mentioned person may appear and himself give evidence or call witnesses.

(4) An application for the making of an order under this section by the court having jurisdiction to wind up a company may be made by the official receiver, or by the liquidator of the company or by any person who is or has been a member or creditor of the company; and on the hearing of any application for an order under this section by the official receiver or the liquidator, or of any application for leave under this section by a person against whom an order has been made on the application of the official receiver or the liquidator, the official receiver or liquidator shall appear and call the attention of the court to any matter which seem to him to be relevant and may himself give evidence or call witnesses.

(5) An order may be made by virtue of sub-paragraph (ii) of paragraph (b) of subsection (1) of this section notwithstanding that the person concerned may be criminally liable in respect of the matters on the ground of which the order is to be made, and for the purposes of the said sub-paragraph (ii) the expression "officer" shall include any person in accordance with whose directions or instructions the directors of the company have been accustomed to act.

(6) If any person acts in contravention of an order made under this section, he shall, in respect of each offence, be liable on conviction to imprisonment for a term not exceeding two years, or to a fine not exceeding one million, or to both.

202. A person is personally responsible for all the relevant debts of a company if at any time:-

(a) in contravention of a disqualification order he is involved in the management of the company; or

(b) as a person who is involved in the management of the company,

he acts or is willing to act on instructions given without the leave of the court by a person whom he knows at that time to be the subject of a disqualification order or to be an undischarged bankrupt.

203.(1) It shall not be lawful for a company to pay a director remuneration (whether as director or otherwise) free of income tax or otherwise calculated by reference to or varying with the amount of his income tax, or to or with the rate or standard rate of income tax.

(2) Any provision contained in a company's articles, or in any contract or in any resolution of a company or a company's directors, for payment to a director of remuneration as aforesaid shall have effect as if it provided for payment, as a gross sum subject to income tax, of the net sum for which it actually provides.

204.(1) It shall not be lawful for a company to make a loan to any person who is its director or a director of its holding company, or to enter into any guarantee or provide any security in connection with a loan made to such a person as aforesaid by any other person:

Provided that nothing in this section shall apply either:-

- (a) to anything done by a company which is for the time being an exempt private company; or
- (b) to anything done by a subsidiary, where the director is its holding company; or
- (c) subject to subsection (2), to anything done to provide any such person as aforesaid with funds to meet expenditure incurred or to be incurred by him for the purposes of the company or for the purpose of enabling him properly to perform his duties as an officer of the company; or
- (d) in the case of a company whose ordinary business includes the lending of money or the giving of guarantees in connection with loan made by other persons, to anything done by the company in the ordinary course of that business.

(2) Proviso (c) to subsection (1) shall not authorize the making of any loan, or the entering into any guarantee, or the provision of any security, except either:-

- (a) with the prior approval of the company given at a general meeting at which the purposes of the expenditure and the amount of the loan or the extent of the guarantee or security, as the case may be, are disclosed; or
- (b) on condition that, if the approval of the company is not given as aforesaid at or before the next following annual general meeting, the loan shall be repaid or the liability under the guarantee or

security shall be discharged, as the case may be, within six months from the conclusion of that meeting.

(3) Where the approval of the company is not given as required by any such condition, the directors authorizing the making of the loan, or the entering into the guarantee, or the provision of the security, shall be jointly and severally liable to indemnify the company against any loss arising therefrom.

205. It shall not be lawful for a company to make to any director of the company any payment by way of compensation for loss of office, or as consideration for or in connection with his retirement from office, unless particulars with respect to the proposed payment (including the amount thereof) have been disclosed to members of the company and the proposal has been approved by the company.

206.(1) It shall not be lawful in connection with the transfer of the whole or any part of the undertaking or property of a company for any payment to be made to any director of the company by way of compensation for loss of office, or as consideration for or in connection with his retirement from office, unless particulars with respect to the proposed payment (including the amount thereof) have been disclosed to the members of the company and the proposal approved by the company.

(2) Where a payment which is hereby declared to be illegal is made to a director of the company, the amount received shall be deemed to have been received by him in trust for the company.

207.(1) Where, in connection with the transfer to any persons of all or any of the shares in a company, being a transfer resulting from:-

- (a) an offer made to the general body of shareholders;
 - (b) an offer made by or on behalf of some other body corporate with a view to the company becoming its subsidiary or a subsidiary of its holding company;
 - (c) an offer made by or on behalf of an individual with a view to his obtaining the right to exercise or control the exercise of not less than one-third of the voting power at any general meeting of the company; or
 - (d) any other offer which is conditional on acceptance to a given extent;
- a payment is to be made to a director of the company by way of compensation for loss of office, or as consideration for or in connection with his retirement from office, it shall be the duty of that director to take all reasonable steps to secure that particulars with respect to the proposed payment (including the amount

thereof) shall be included in or sent with any notice of the offer made for their shares which is given to any shareholders.

(2) If:-

- (a) any such director fails to take reasonable steps as aforesaid; or
- (b) any person who has been properly required by any such director to include the said particulars in or send them with any such notice as aforesaid fails so to do; he shall be liable to a fine.

(3) If:-

- (a) the requirements of subsection (1) of this section are not complied with in relation to any such payment as is therein mentioned; or
- (b) the making of the proposed payment is not, before the transfer of any shares in pursuance of the offer, approved by a meeting summoned for the purpose of the holders of the shares to which the offer relates and of other holders of shares of the same class as any of the said shares;

any sum received by the director on account of the payment shall be deemed to have been received by him in trust for any persons who have sold their shares as a result of the offer made, and the expenses incurred by him in distributing that sum amongst those persons shall be borne by him and not retained out of that sum.

(4) Where the shareholders referred to in paragraph (b) of subsection (3) are not all the members of the company and no provision is made by the articles for summoning or regulating such a meeting as it mentioned in that paragraph, the provisions of this Act and of the company's articles relating to general meetings of the company shall, for that purpose, apply to the meeting either without modification or with such modifications as the Minister on the application of any person concerned may direct for the purpose of adapting them to the circumstances of the meeting.

(5) If at a meeting summoned for the purpose of approving any payment as required by paragraph (b) of subsection (3) a quorum is not present and, after the meeting has been adjourned to a later date, a quorum is again not present; the payment shall be deemed for the purposes of that subsection to have been approved.

208.(1) Where in proceedings for the recovery of any payment as having, by virtue of 206(1) and (2) or sections 207(1) and (3) been received by any person in trust, it is shown that:-

- (a) the payment was made in pursuance of any arrangement entered into as part of the agreement for the transfer in

question or within one year before or two years after that agreement or the offer leading thereto; and

- (b) the company or any person to whom the transfer was made was privy to that arrangement;

the payment shall be deemed, except in so far as the contrary is shown, to be one to which the subsections apply.

(2) If in connection with any such transfer as is mentioned in either of sections 206 or 207:-

- (a) the price to be paid to a director of the company whose office is to be abolished or who is to retire from office for any shares in the company held by him is in excess of the price which could at the time have been obtained by other holders of the like shares; or

- (b) any valuable consideration is given to any such director; the excess or the money value of the consideration, as the case may be, shall, for the purposes of that section, be deemed to have been a payment made to him by way of compensation for loss of office or as consideration for or in connection with his retirement from office.

(3) References in sections 205, 206 and 207 to payments made to any director of a company by way of compensation for loss of office, or as consideration for or in connection with his retirement from office, do not include any bona fide payment by way of damages for breach of contract or by way of pension in respect of past services, and for the purposes of this subsection the expression "pension" includes any superannuation allowance, superannuation gratuity or similar payment.

(4) Nothing in sections 206 and 207 shall be taken to prejudice the operation of any rule of law requiring disclosure to be made with respect to any such payments as are therein mentioned or with respect to any other like payments made or to be made or to be made to the directors of a company.

209.(1) Every company shall keep register showing as respects each director of the company (not being its holding company) the number, description and amount of any shares in or debentures of the company or any other body corporate, being the company's subsidiary or holding company, or a subsidiary of the company's holding company, which are held by or in trust for him or of which he has any right to become the holder (whether on payment or not):

Provided that the register need not include shares in any body corporate which is the wholly owned subsidiary of another body corporate, and for this purpose a body corporate shall be deemed to be the wholly owned subsidiary of another if it has no members but that other and that other's wholly owned subsidiaries

and its or their nominees.

(2) Where any shares or debentures fall to be or cease to be recorded in the said register in relation to any director by reason of a transaction entered into while he is a director, the register shall also show the date of and price or other consideration for the transaction. Provided that where there is an interval between the agreement for any such transaction and the completion thereof, the date shall be that of the agreement.

(3) The nature and extent of a director's interest or right in or over any shares or debentures recorded in relation to him in the said register shall if he so requires be indicated in the register.

(4) The company shall not by virtue of anything done for the purposes of this section be affected with notice of or put upon inquiry as to the rights of any person in relation to any shares or debentures.

(5) The said register shall, subject to the provisions of this section, be kept at the company's registered office and shall be open to inspection during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than two hours in each day be allowed for inspection) as follows:-

(a) during the period beginning fourteen days before the date of the company's annual general meeting and ending three days after the date of its conclusion, it shall be open to the inspection of any member or holder of debentures of the company; and

(b) during that or any other period, it shall be open to the inspection of any person acting on behalf of the Registrar.

In computing the fourteen days and the three days mentioned in this subsection any day which is a Saturday or Sunday or a public or bank holiday shall be disregarded.

(6) Without prejudice to the rights conferred by subsection (5), the Registrar may at any time require a copy of the said register or any part thereof.

(7) The said register shall also be produced at the commencement of the company's annual general meeting and remain open and accessible during the continuance of the meeting to any person attending the meeting.

(8) If default is made in complying with subsection (7), the company and every officer of the company who is in default shall be liable to a fine and if default is made in complying with subsection (1) and (2) of this section or if any inspection required under this section is refused or any copy required thereunder is not within a reasonable time, the company and every officer of the company who is in default, shall be liable to a fine and further to a default fine.

(9) In the case of any such refusal, the court may by order compel an immediate inspection of the register.

(10) For the purposes of this section:-

- (a) any person in accordance with those directors or instructions the directors of a company are accustomed to act shall be deemed to be a director of the company; and
- (b) a director of a company shall be deemed to hold, or to have any interest or right in or over, any shares or debentures if a body corporate other than the company holds them or has that interest or right in or over them, and either
 - (i) than body corporate or its directors are accustomed to act in accordance with his directions or instructions; or
 - (ii) he is entitled to exercise or control the exercise of one-third or more of the voting power at any general meeting of that body corporate.

210.(1) In any accounts of a company laid before it in general meeting, or in a statement annexed thereto, there shall, subject to and in accordance with the provisions of this section, be shown so far as the information is contained in the company's books and papers or the company has the right to obtain it from the persons concerned:-

- (a) the aggregate amount of the directors' emoluments;
- (b) the aggregate amount of directors' or past directors' pensions; and
- (c) the aggregate amount of any compensation to directors or past directors in respect of loss of office.

(2) The amount to be shown under paragraph (a) of subsection (1) of this section:-

- (a) shall include any emoluments paid to or receivable by any person in respect of his services as director of the company or in respect of his services while director of the company, as director of any subsidiary thereof or otherwise in connection with the management of the affairs of the company or any subsidiary thereof; and
- (b) shall distinguish between emoluments in respect of services as director, whether of the company or its subsidiary, and other emoluments;

For the purpose of this section the expression "emoluments" in relation to a director, includes fees and percentages, any sums

paid by way of expenses, allowance in so far as those sums are charged to income tax in the Protect of Fate any contribution paid in respect of him under any pension scheme and the estimated money value of any other benefits received by him otherwise than in cash.

(3) The amount to be shown under paragraph (b) of the said subsection (1):-

- (a) shall not include any pension paid or receivable under a pension scheme if the scheme is such that the contributions thereunder are substantially adequate for the maintenance of the scheme, but save as aforesaid shall include any pension paid or receivable in respect of any such services of a director or past director of the company as are mentioned in subsection (2), whether to or by him or, on his nomination or by virtue of dependence on or other connection with him, to or by any other person; and
- (b) shall distinguish between pensions in respect of services as director, whether of the company or its subsidiary, and other pensions;

For the purposes of this section the expression "pension" includes any superannuation allowance, superannuation gratuity or similar payment, and the expression "pension scheme" means a scheme for the provision of pensions in respect of services as director or otherwise which is maintained in whole or in part by means of contributions, and the expression "contribution" in relation to a pension scheme means any payment (including an insurance premium) paid for the purposes of the scheme by or in respect of persons rendering services in respect of which pensions will or may become payable under the scheme, except that it does not include any payment in respect of two or more persons if the amount paid in respect of each of them is not ascertainable.

(4) The amount to be shown under paragraph (c) of the said subsection (1):-

- (a) shall include any sums paid to or receivable by a director or past director by way of compensation for the loss of office as director of the company or for the loss, while director of the company or on or in connection with his ceasing to be a director of the company of any other office in connection with the management of the company's affairs or of any office as director or otherwise in connection with the management of the affairs of any subsidiary thereof; and
- (b) shall distinguish between compensation in respect of the office of director whether of the company or its subsidiary, and compensation in respect of other offices;

and for the purposes of this section references to compensation for loss of office shall include sums paid as consideration for or in connection with a person's retirement from office.

(5) The amounts to be shown under each paragraph of the said subsection (1):-

(a) shall include all relevant sums paid by or receivable from:-

- (i) the company; and
- (ii) the company's subsidiaries; and
- (iii) any other person;

Except sums to be accounted for to the company or any or its subsidiaries or any class of those members; and

(b) shall distinguish, in the case of the amount to be shown under paragraph (c) of the said subsection (1), between the sums respectively paid by or receivable from the company, the company's subsidiaries and persons other than the company and its subsidiaries.

(6) The amounts to be shown under this section for any financial year shall be the sums receivable in respect of that year, whenever paid, or in the case of sums not receivable in respect of a period, the sums paid during the year, so, however, that where: -

- (a) any sums are not shown in the accounts for the relevant financial year on the ground that the person receiving them is liable to account therefore as mentioned in paragraph (a) of subsection (5), but the liability is thereafter wholly or partly released or is not enforced within a period of two years; or
- (b) any sums paid by way of expenses allowance are charged to Tax Authority after the end of the relevant financial year;

those sums shall not the extent to which the liability is released or not enforced or they are charged as aforesaid, as the case may be, be shown in the first accounts in which it is practicable to show them, or in a statement annexed thereto, and shall be distinguished from the amounts to be shown therein apart from this provision.

(7) Where it is necessary so to do for the purpose of making any distinction required by this section in any amount to be shown thereunder, the directors may apportion any payments between the matters in respect of which they have been paid or are receivable in such manner as they think appropriate.

(8) If in the case of any accounts the requirements of this section are not

complied with, it shall be the duty of the auditors of the company by whom the accounts are examined to include in their report thereon, so far as they are reasonably able to do so, a statement giving the required particulars.

(9) In this section any reference to a company's subsidiary:-

- (a) In relation to a person who is or was, while a director of the company, a director also, by virtue of the company's nomination, direct or indirect, of any other body corporate, shall, subject to the following paragraph, include that body corporate, whether or not it is or was in fact the company's subsidiary; and
- (b) Shall for the purposes of subsections (2) and (3) of this section be taken as referring to a subsidiary at the time the services were rendered, and for the purposes of subsection (4) of this section be taken as referring to a subsidiary immediately before the loss of office as director of the company.

211.(1) The accounts which, in pursuance of this Act, are to be laid before every company in general meeting shall, subject to the provisions of this section, contain particulars showing:-

- (a) the amount of any loans made during the company's:-
 - (i) any officer of the company; or
 - (ii) any person who, after the making of the loan, become during that year an officer of the company; by the company or a subsidiary thereof or by any other person under a guarantee from or on a security provided by the company or a subsidiary thereof (including any such loans which were repaid during that year); and
- (b) the amount of any loans made in manner aforesaid to any such officer or person as aforesaid at any time before the company's financial year and outstanding at the expiration thereof.

(2) Subsection (1) of this section shall not require the inclusion in accounts of particulars of:

- (a) a loan made in the ordinary course of its business by the company or a subsidiary thereof, where the ordinary business of the company or a subsidiary thereof, or as the case may be, the subsidiary, includes the lending of money; or
- (b) a loan made by the company or a subsidiary thereof to an employee of the company or subsidiary, as the case may be, if the loan does not exceed forty thousand shillings and is certified by the directors of the company or subsidiary, as the case may be, to have been made in accordance with any practice adopted or about to be adopted by the company or subsidiary with respect

to loans to its employees;

not being, in either case, a loan made by the company under a guarantee from or on a security provided by a subsidiary thereof or a loan made by a subsidiary of the company under a guarantee from or on a security provided by the company or any other subsidiary thereof.

(3) If in the case of any such accounts as aforesaid the requirements of this section are not complied with, it shall be the duty of the auditors of the company whom the accounts are examined to include in their report the balance sheet of the company, so far as they are reasonably able to do so, a statement giving the required particulars.

(4) References in this section to a subsidiary shall be taken as referring to a subsidiary at the end of the company's financial year (whether or not a subsidiary at the date of the loan).

212.(1) It shall be the duty of any director of a company to give notice to the company of such matters relating to himself as may be necessary for the purposes of section 209 and 210 and of section 211 except so far as it relates to loans made by the company or by any other person under a guarantee from or on a security provided by the company, to an officer thereof.

(2) Any such notice given for the purposes of section 209 shall be in writing and, if it is not given at a meeting of the directors, the director giving it shall take reasonable steps to secure that it is brought up and read at the next meeting of directors after it is given.

(3) Subsection (1) of this section shall apply:-

(a) for the purposes of section 210 in relation to officers other than directors; and

(b) for the purposes of section 210 and section 211 in relation to persons who are or have at any time during the preceding five years been officers; as it applies in relation to directors.

(4) Any person who makes default in complying with the foregoing provisions of this section shall be liable to a fine.

213.(1) Subject to the provisions of this section, it shall be the duty of a director of a company who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company to declare the nature of his interest at a meeting of the directors of the company.

(2) In the case of a proposed contract the declaration required by this section to be made by a director shall be made at the meeting of the directors at which the question of entering into the contract is first taken into consideration,

or if the director was not at the date of that meeting interested in the proposed contract, at the next meeting of the directors held after he became so interested, and in a case where the director becomes interested in a contract after it is made, the said declaration shall be made at the first meeting of the directors held after the director becomes so interested.

(3) For the purpose of this section, a general notice given to the directors of a company by a director to the effect that he is a member of a specified company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that company or firm, shall be deemed to be a sufficient declaration of interest in relation to any contract so made.

Provided that no such notice shall be of effect unless either it is given at a meeting of the directors or the director takes reasonable steps to secure that it is brought up and read at the next meeting of the directors after it is given.

(4) Any director who fails to comply with the provisions of this section shall be liable to a fine.

(5) Nothing in this section shall be taken to prejudice the operation of any rule of law restricting directors of a company from having any interest in contracts with the company.

214.(1) Every company shall keep at its registered office a register of its directors and secretaries.

(2) The said register shall contain the following particulars with respect to each director, that is to say:-

- (a) in the case of an individual, his present first name and surname or any former first name and surname, his usual residential address, his nationality and, if that nationality is not the nationality of origin, his nationality of origin, his business occupation, if any, particulars of any other directorships held by him and, in the case of a company subject to section 199, the date of his birth; and
- (b) in the case of a corporation, its corporate name and registered or principal office:

Provided that it shall not be necessary for the register to contain particulars of directorships held by a director in companies of which the company is the wholly owned subsidiary, or which are the wholly owned subsidiaries either of the company or of another company of which the company is the wholly-owned subsidiary, and for the purposes of this proviso, a body corporate shall be deemed to be the wholly owned subsidiary of another if it has no members except that other and that other's wholly owned subsidiaries; and its or their

nominees.

(3) The said register shall contain the following particulars with respect to the secretary or, where there are joint secretaries, with respect to each of them, that is to say:-

- (a) in the case of an individual, his present first name and surname and the name of his tribe, if any, any former first name and surname and his usual residential address; and
- (b) in the case of a corporation, its corporate name and registered office.

(4) The company shall within the periods respectively mentioned in subsection (5), send to the Registrar a return in the prescribed form containing the particulars specified in the said register and a notification in the prescribed form of any change among its directors or in its secretary or in any of the particulars contained in the register, specifying the date of the change.

(5) The periods referred to in subsection (4) are the following, namely;

- (a) the period within which the said return is to be sent shall be a period of fourteen days from the appointment of the first directors of the company; and
- (b) the period within which the said notification of a change is to be sent shall be fourteen days from the happening thereof.

(6) The register to be kept under this section shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member of the company without charge and of any other person, on payment of such sum as prescribed under the Regulations, for each inspection.

(7) If any inspection required under this section is refused or if default is made in complying with subsection (1), (2), (3) or (4) of this section, the company and every officer of the company who is in default shall be liable to a default fine.

(8) In the case of any such refusal, the court may by order compel an immediate inspection of the register.

(9) For the purposes of this section:-

- (a) a person in accordance with whose directions and instructions the directors of a company are accustomed to act shall be deemed to be a director and officer of the company;
- (b) the expression "First name" includes a forename;

(c) in the case of a peer or person usually known by a title different from his surname, the expression "surname" means that title;

(d) references to a former First name or surname do not include:-

(i) in the case of a peer or a person usually known by a different title from his surname, the name by which he was known previous to the adoption of or succession to the title; or

(ii) in the case of any person, a former first name or surname where that name or surname, was changed or disused before the person bearing the name attained the age of eighteen years or has been changed or disused for a period of not less than twenty years; or
in the case of a married woman, the name or surname by which she was known previous to the marriage.

215.(1) Subject to the following provisions, every company shall keep at an appropriate place:-

(a) in the case of each director whose contract of service with the company is in writing, a copy of that contract;

(b) in the case of each director whose contract of service with the company is not in writing, a written memorandum setting out its terms; and

(c) in the case of each director who is employed under a contract of service with a subsidiary of the company, a copy of that contract or, if it is not in writing, a written memorandum setting out its terms.

(2) All copies and memoranda kept by a company in pursuance of subsection (1) shall be kept at the same place.

(3) The following are appropriate places for the purposes of subsection (1):-

(a) the company's registered office;

(b) the place where its register of members is kept (if other than its registered office).

(4) Every company shall send notice in the prescribed form to the Registrar of Companies of the place where copies and memorandum are kept in compliance with subsection (1), and of any change in that place, save in a case in which they have at all times been kept at the company's registered office.

(5) Every copy and memorandum required by subsection (1) to be kept shall be open to inspection of any member of the company without charge.

(6) If:-

- (a) default is made in complying with subsection (1); or
- (b) an inspection required under subsection (5) is refused; or the company and every officer of it who is in default is liable to a fine and, for continued contravention to a daily default fine.

(7) In the case of a refusal of an inspection required under subsection (5) of a copy or memorandum, the court may by order compel an immediate inspection of it.

(8) Subsection (1) shall apply to a variation of a director's contract of service as it applies to the contract.

216.(1) This section applies in respect of any term of an agreement whereby a director's employment with the company of which he is a director or, where he is the director of a holding company, his employment than at the instance of the company (whether under the original agreement or under a new agreement entered into a pursuance of it), for a period of more than three years during which the employment:-

- (a) cannot be terminated by the company by notice; or
- (b) can be so terminated only in specified circumstances.

(2) In any case where:-

- (a) a person is or is to be employed with a company under an agreement which cannot be terminated by the company by notice or can be so terminated only in specified circumstances; and
- (b) more than six months before the expiration of the period for which he is or is to be so employed, the company enters into a further agreement (otherwise than in pursuance of a right conferred by or under the original agreement on the other party to it) under which he is to be employed with the company or, where he is a director of a holding company within the group.

(3) This section applies as if to the period for which he is to be employed under that further agreement there were added a further period equal to the unexpired period of the original agreement.

(4) A company shall not incorporate in an agreement such a term as is mentioned in subsection (1), unless the term is first approved by a resolution of the company in general meeting and, in the case of a director of a holding company, by a resolution of that company in general meeting.

(5) No approval is required to be given under this section by any body corporate unless it is a company within the meaning of this Act, or if it is a wholly owned subsidiary of any body corporate, wherever incorporated.

(6) A resolution of a company approving such a term as is mentioned in subsection (1) shall not be passed at a general meeting of the company unless a written memorandum setting out the proposed agreement incorporating the term is available for inspection by members of the company, both:-

- (a) at the company's registered office for not less than fifty days ending with the date of the meeting; and
- (b) at the meeting itself.

(7) A term incorporated in an agreement in contravention of this section is, to the extent that it contravenes this section, void; and that agreement and, in a case where subsection (2) applies, the original agreement are deemed to contain a term entitling the company to terminate it at any time by giving reasonable notice.

217.(1) Every company shall, in all business documentation on or in which the company's name appears and which is issued or sent by the company to any person in any part of the territory, state in legible letters with respect to every director being a corporation, the corporate name, and with respect to every director being an individual, the following particulars:-

- (a) his present name, or the initials thereof, and present surnames.
- (b) any former names and surnames;

Provided that, if special circumstances exist which render it in the opinion of the Registrar expedient that such an exemption should be granted, the Registrar may by order grant, subject to such conditions as may be specified in the order, exemption from all or any of the obligations imposed by this subsection.

(2) If a company makes default in complying with this section, every officer of the company who is in default shall be liable on conviction for each offence to a fine not exceeding five hundred thousand, and for the purposes of this subsection, where a corporation is an officer of the company, any officer of the corporation shall be deemed to be an officer of the company.

(3) For the purposes of this section:-

- (a) the expression "director" includes any person in accordance with whose directions or instructions the directors of the company are accustomed to act and the expression "officer" shall be construed accordingly;
- (b) the expression "initials" includes a recognized abbreviation of a name, and paragraphs (b) and (c) of subsection (9) of section 214 shall apply as they apply for the purposes of that section.

218. Subject as hereinafter provided, any provision, whether contained in

the articles of a company or in any contract with a company or otherwise, for exempting any officer of the company or any person (whether an officer of the company or not) employed by the company as auditor from, or indemnifying him against, any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the company shall be void.

Provided that:-

- (a) nothing in this section shall operate to prevent a company from purchasing and maintaining for any such officer or auditor insurance against any such liability; and
- (b) notwithstanding anything in this section, a company may, in pursuance of any such provision as aforesaid, indemnify any such officer or auditor against any liability incurred by him in defending any proceedings, whether civil or criminal in which judgment is given in his favour or in which he is acquitted or in connection with any application under Section 261 in which relief is granted to him by the court.

219.(1) Where a compromise or arrangement is proposed between a company and its creditors or any class of them or between the company and its members or any class of them, the court may, on the application in a summary way of the company or of any creditor or member of the company, or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be summoned in such manner as the court directs.

(2) If a majority in number representing three-fourths in value of the creditors or class of creditors or members or class of members, as the case may be, present and voting either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the court, be binding on all the creditors or the class of creditors, or on the members or class of members, as the case may be, and also on the company or, in the case of a company in the course of being wound up, on the liquidator and contributories of the company.

(3) An order made under subsection (2) of this section shall have no effect until a certified copy of the order has been delivered to the Registrar for registration, and a copy of every such order shall be annexed to every copy of the memorandum of the company issued after the order has been made, or in the case of a company in the course of being wound up, on the liquidator and contributories of the company.

(4) If a company makes default in complying with subsection (3) of this section, the company and every officer of the company who is in default shall be liable to a fine for each copy in respect of which default is made.

(5) In this section and in section 220 the expression "company" means any company liable to be wound up under this Act, and the expression "arrangement" includes a re-organization of the share capital of the company by the consolidation of shares of different classes or by the division of shares into shares of different classes or by both those methods.

220.(1) Where a meeting of creditors or any class of creditors or of members or any class of members is summoned under section 219 there shall:-

- (a) with every notice summoning the meeting which is sent to a creditor or member, be sent also a statement explaining the effect of the compromise or arrangement and in particular stating any material interests of the directors of the company, whether as directors or as members or as creditors or as members or as creditors of the company or otherwise, and the effect thereon of the compromise or arrangement; in so far as it is different from the effect on the like interests of other persons; and
- (b) in every notice summoning the meeting which is given by advertisement, be included either such a statement as aforesaid or a notification of the place at which and the manner in which creditors or members entitled to attend the meeting may obtain copies of such a statement as aforesaid.

(2) Where the compromise or arrangement affects the rights of debenture holders of the company, the said statement shall give the like explanation as respects the trustees of any deed for securing the issue of the debentures as it is required to give as respects the company's directors.

(3) Where a notice given by advertisement includes a notification that copies of a statement explaining the effect of the compromise or arrangement proposed can be obtained by creditors or members entitled to attend the meeting, every such creditor or member shall, on making application in the manner indicated by the notice, be furnished by the company free of charge with a copy of the statement.

(4) Where a company makes default in complying with any requirement of this section, the company and every officer of the company who is in default shall be liable to a fine, and for the purpose of this subsection any liquidator of the company and any trustee of a deed for securing the issue of debentures of the company shall be deemed to be an officer of the company.

Provided that a person shall not be liable under this subsection if that person shows that the default was due to the refusal of any other person, being a director or trustee for debenture holders, to supply the necessary particulars as to his interests.

(5) It shall be the duty of any director of the company and of any trustee

for debenture holders of the company to give notice to the company of such matters relating to himself as may be necessary for the purposes of this section, and any person who makes default in complying with this subsection shall be liable to a fine.

221.(1) Where an application is made to the court under section 219 for the sanctioning of a compromise or arrangement proposed between a company and any such persons as are mentioned in that section, and it is shown to the court that the compromise or arrangement has been proposed for the purposes of or in connection with a scheme for the reconstruction of any company or companies or the amalgamation of any two or more companies, and that under the scheme the whole or any part of the undertaking or the property of any company concerned in the scheme (in this section referred to as "a transfer company") is to be transferred to another company (in this section referred to as "the transferee company"), the Court may, either by the order sanctioning the compromise or arrangement or by any subsequent order, make provision for all or any of the following matters:-

- (a) the transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of any transferor company;
- (b) the allotting or appropriation by the transferee company of any shares, debentures, policies or other like interests in that company which under the compromise or arrangement are to be allotted or appropriated by that company to or for any person;
- (c) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company;
- (d) the dissolution, without winding up, of any transferor company;
- (e) the provision to be made for any persons, who within such time and in such manner as the court directs, dissent from the compromise or arrangement;
- (f) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out.

(2) Where an order under this section provides for the transfer of property or liabilities, that property shall, by virtue of the order, be transferred to and vest in, and those liabilities shall, by virtue of the order, be transferred to and become the liabilities of the transferee company, and in the case of any property, if the order so directs, freed from any charge which is by virtue of the compromise or arrangement to cease to have effect.

(3) Where an order is made under this section, every company in relation to which the order is made shall cause a certified copy thereof to be

delivered to the Registrar for registration within seven days after the making of the order, and if default is made in complying with this subsection, the company and every officer of the company who is in default shall be liable to a default fine.

(4) In this section the expression "property" includes property, rights and powers of every description, and the expression "liabilities" includes duties.

(5) Notwithstanding the provisions of subsection (5) of section 219, the expression "company" in this section does not include any company other than a company within the meaning of this Act.

222.(1) Where a scheme or contract involving the transfer of shares or any class of shares in a company (in this section referred to as "the transferor company") to another company, whether a company within the meaning of this Act or not (in this section referred to as "the transferee company") has, within four months after the making of the offer in that behalf by the transferee company been approved by the holders of not less than nine tenths in value of the shares whose transfer is involved (other than shares already held at the date of the offer by, or by a nominee for, the transferee company or its subsidiary), the transferee company may, at any time within two months after the expiration of the said four months, give notice in the prescribed manner to any dissenting shareholder that it desires to acquire his shares, and when such a notice is given the transferee company shall, unless on an application made by the dissenting shareholder within one month from the date on which the notice was given the court thinks fit to order otherwise, be entitled and bound to acquire those shares on the terms on which, under the scheme or contract, the shares of the approving shareholders are to be transferred to the transferee company.

Provided that where shares in the transferor company of the same class or classes as the shares whose transfer is involved are already held as aforesaid to a value greater than one-tenth of the aggregate of their value and that of the shares (other than those already held as aforesaid) whose transfer is involved, the foregoing provisions of this subsection shall not apply unless:-

- (a) the transferee company offers the same terms to all holders of the shares (other than those already held as aforesaid) whose transfer is involved, or where those shares include shares of different classes, of each class of them; and
- (b) the holders who approve the scheme to contract, besides holding not less than nine-tenths in value of the shares (other than those already held as aforesaid) whose transfer is involved, are not less than three-fourths in number of the holders of those shares.

(2) Where, in pursuance of any such scheme or contract as aforesaid, shares in a company are transferred to another company or its nominee, and those shares together with any other shares in the first mentioned company held by, or by a nominee for, the transferee company or its subsidiary at the date of

the transfer comprise or include nine-tenths in value of the shares in the first-mentioned company or of any class of those shares, then:-

- (a) the transferee company shall within one month from the date of the transfer (unless on a previous transfer in pursuance of scheme or contract it has already complied with this requirement) give notice to that fact in the prescribed manner to the holders of the remaining shares or of the remaining shares of that class, as the case may be, who have not assented to the scheme or contract; and
- (b) any such holder may within three months from the giving of the notice to him require the transferee company to acquire the shares in question;

and where a shareholder gives notice under paragraph (b) of this subsection with respect to any shares, the transferee company shall be entitled and bound to acquire those shares on the terms on which under the scheme or contract the shares of the approving shareholders were transferred to it, or on such other terms as may be agreed or as the court on the application of either the transferee company or the shareholder think fit to order.

(3) Where a notice has been given by the transferee company under subsection (1) and the Court has not, on application made by the dissenting shareholder, ordered to the contrary, the transferee company shall, on the expiration of one month from the date on which the notice has been given, or, if an application to the court by the dissenting shareholder is then pending, after that application has been disposed of, transmit a copy of the notice to the transferor company together with an instrument of transfer executed on behalf of the shareholder by any person appointed by the transferee company and on its own behalf by the transferee company, and pay or transfer to the transferor company the amount or other consideration representing the price payable by the transferee company for the shares which by virtue of this section that company is entitled to acquire, and the transferor company shall thereupon register the transferee company as the holder of those shares.

Provided that an instrument of transfer shall not be required for any share for which a share warrant is for the time being outstanding.

(4) Any sums received by the transferor company under this section shall be paid into a separate bank account, and any such sums and any other consideration so received shall be held by that company on trust for the several persons entitled to the shares in respect of which the said sums or other consideration were respectively received.

(5) In this section, the expression "dissenting shareholder" includes a shareholder who has not assented to the scheme or contract and any shareholder

who has failed or refused to transfer his shares to the transferee company in accordance with the scheme or contract.

223.(1) Any member of a company who complains that the affairs of the company are being conducted in a manner oppressive to some part of the members (including himself) or, in a case falling within subsection (3) of section 176, may make an application to the court by petition for an order under this section.

(2) If on any such petition the court is of opinion that:-

- (a) the company's affairs are being conducted as aforesaid; and
- (b) to wind up the company would unfairly prejudice that part of the members, but otherwise the facts would justify the making of a winding up order on the ground that it was just and equitable that the company should be wound up;

the court may, with a view to bringing to an end the matters complained of, make such order as it thinks fit, whether for regulating the conduct of the company's affairs in future, or for the purchase of the shares of any members of the company by other members of the company or by the company and, in the case of a purchase by the company, for the reduction accordingly of the company's capital, or otherwise.

(3) Where an order under this section makes any alteration in or addition to any company's memorandum or articles, then, notwithstanding anything in any other provision of this Act but subject to the provisions of the order, the company concerned shall not have power without the leave of the court to make any further alteration in or addition to the memorandum or articles inconsistent with the provision of the order; but, subject to the foregoing provisions of this subsection, the alterations or additions made by the order shall be of the same effect as if duly made by resolution of the company and the provisions of this Act shall apply to the memorandum or articles as so altered or added to accordingly.

(4) A certified copy of any order under this section altering or adding to, or giving leave to alter or add to, a company's memorandum or articles shall, within fourteen days after the making thereof, be delivered by the company to the Registrar for registration; and if a company makes default in complying with this subsection, the company and every officer of the company who is in default be liable to a default fine.

(5) A petition under this section, shall not bar the right of any creditor or contributory to have the company wound up by the court under the Insolvency Act, but in the case of an application by a contributory the court must be satisfied that the rights of the contributories will be prejudiced by a petition

under this section.

PART VII
MEMBERS' VOLUNTARY WINDING UP

224.(1) A company may be wound up voluntarily:-

- (a) when the period (if any) fixed for the duration of the company by the articles expires, or the event (if any) occurs, on the occurrence of which the articles provide that the company is to be dissolved, and the company in general meeting has passed a resolution requiring it to be wound up voluntarily;
- (b) if the company resolves by special resolution that it be wound up voluntarily;
- (c) if the company resolves by extraordinary resolution to the effect that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up.

(2) In this Act the expression "a resolution for voluntary winding up" means a resolution passed under of the paragraphs of subsection (1).

(3) A resolution passed under paragraph (a) of subsection (1), as well as a special resolution under paragraph (b) and an extraordinary resolution under paragraph (c), shall be forwarded to the Registrar of Companies within 15 day).

225.(1) When a company has passed a resolution for voluntary winding up, it shall, within 14 days after the passing of the resolution, give notice of the resolution by advertisement in the Gazette.

(2) If the default is made in complying with this section, the company and every officer of it who is in default is liable to a fine and, for continued contravention, to a daily default fine.

For the purposes of this subsection the liquidator is deemed an officer of the company.

226. A voluntary winding up is deemed to commence at the time of the passing of the resolution for voluntary winding up.

Consequences of resolution to wind up

227. In case of a voluntary winding up, the company shall from the commencement of the winding up cease to carry on its business, except so far as may be required for its beneficial winding up.

Provided that, the corporate state and corporate powers of the company, notwithstanding anything to the contrary in its articles, continue until the company is dissolved.

228. Any transfer of shares, not being a transfer made to or with the sanction of the liquidator, and any alteration in the status of the company's members, made after the commencement of a voluntary winding up, is void.

229.(1) Where it is proposed to wind up a company voluntarily, the directors (or, in the case of a company having more than two directors, the majority of them) may at a directors' meeting make a statutory declaration to the effect that they have made a full inquiry into the company's affairs and that having done so, they have formed the opinion that the company will be able to pay its debts in full, together with interest at the official rate, within such period not exceeding 12 months from the commencement of the winding up, as may be specified in the declaration.

(2) Such a declaration by the directors has no effect for purposes of this Act unless-

- (a) it is made within the 5 weeks immediately preceding the date of the passing of the resolution for winding up, or on that date but before the passing of the resolution, and,
- (b) it embodies a statement of the company's assets and liabilities as at the latest practicable date before the making of the declaration.

(3) The declaration shall be delivered to the Registrar of Companies before the expiration of 15 days immediately following the date on which the resolution for winding up is passed.

(4) A director making a declaration under this section without having reasonable grounds for the opinion that the company will be able to pay its debts in full, together with the interest at the official rate, within the period specified is liable to imprisonment for not less than three months and not exceeding two years, or a fine of not less than six hundred thousand and not more than two millions, or both.

(5) If the company is wound up in pursuance of a resolution passed within 5 weeks after the making of the declaration, and its debts (together with interest at the official rate) are not paid or provided for in full within the period specified, it is to be presumed (unless the contrary is shown) that the director did not have reasonable grounds for his opinion.

(6) If the declaration required by subsection (3) to be delivered to the Registrar is not so delivered within the time prescribed by that subsection, the company and every officer in default is liable to a fine and, for continued contravention, to a daily default fine.

230. A winding up in the case of which a director's statutory declaration under section 229 has been made is a "members' voluntary winding up"; and a winding up in the case of which such a declaration had not been made is a

"creditors' voluntary winding up".

231.(1) In a members' voluntary winding up, the company in general meeting shall appoint one or more liquidators for the purpose of winding up the company's affairs and distributing its assets.

(2) On appointment of a liquidator all the powers of the directors cease, except so far as the company in general meeting or the liquidator sanctions their continuance.

232.(1) If the vacancy occurs by death, resignation or otherwise in the office of the liquidator appointed by the company, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy.

(2) For that purpose a general meeting may be convened by any contributory or, if there were more liquidators than one, by the continuing liquidators.

(3) The meeting shall be held in a manner provided by this Act or by the articles, or in such a manner as may, on application by any contributory or by the continuing liquidators, be determined by the court.

233.(1) In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding up, and of each succeeding year, or at the first convenient date within 3 months from the end of the year or such longer period as the Minister may allow.

(2) The liquidator shall lay before the meeting an account of his acts and dealings, and of the conduct of the winding up, during the preceding year.

(3) If the liquidator fails to comply with this section, he is liable to a fine.

234.(1) As soon as the company's affairs are fully wound up, the liquidator shall make up an account of the winding up, showing how it has been conducted and the company's property has been disposed of, and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving an explanation of it.

(2) The meeting shall be called by advertisement in the Gazette, specifying its time, place and object and published at least one month before the meeting.

(3) Within one week after the meeting, the liquidator shall send to the Registrar of Companies a copy of the account, and shall make a return to him of the holding of the meeting and of its date.

(4) If the copy is not sent or the return is not made in accordance with

subsection (3), the liquidator is liable to a fine and, for continued contravention, to a daily default fine.

(5) If the quorum is not present at the meeting, the liquidator shall, in lieu of the return mentioned above, make a return that the meeting was duly summoned and that no quorum of subsection (3) as to the making of the return are deemed complied with.

(6) If the liquidator fails to call a general meeting of the company as required by subsection (1) he is liable to a fine.

235.(1) This section applies where the liquidator is of the opinion that the company will be unable to pay its debts in full (together with interest at the official rate) within the period stated in the directors' declaration made under section 229.

(2) The liquidator shall-

- (a) summon a meeting of creditors for a day not later than the 28th day after the day on which he formed that opinion;
- (b) send notices of the creditors' meeting to the creditors by post not less than 7 days before the day on which that meeting is to be held;
- (c) cause notice of the creditors' meeting to be advertised once in the Gazette and once at least in 2 newspapers circulating in locality in which the company's principal place of business in Zanzibar was situated during the relevant period);and
- (d) during the period before the day on which the creditors' meeting is to be held, furnish creditors free of charge with such information concerning the affairs of the company as they may reasonably require; and the notice of the creditors' meeting shall state the duty imposed by paragraph (d) above.

(3) The liquidator shall also-

- (a) make out a statement in the prescribed form as to the affairs of the company;
- (b) lay that statement before the creditors' meeting; and
- (c) attend and preside at that meeting.

(4) The statement as to the affairs of the company shall be verified by affidavit by the liquidator and shall show;

- (a) particulars of the company's assets, debts and liabilities;
- (b) the names and addresses of the company's creditors;

- (c) the securities held by them respectively;
- (d) the dates when the securities were respectively given; and
- (e) such further or other information as may be prescribed.

(5) Where the company's principal place of business in Zanzibar was situated in different localities at different times during the relevant period, the duty imposed by subsection (2)(c) applies separately in relation to each of those localities.

(6) Where the company had no place of business in Zanzibar during the relevant period, references in subsections (2)(c) and (5) to the company's principal place of business in Zanzibar are replaced by references to its registered office.

(7) In this section "the relevant period" means the period of 6 months immediately preceding the day on which were sent the notices summoning the company meeting at which it was resolved that the company be wound up voluntarily.

(8) If the liquidator without reasonable excuse fails to comply with this section, he is liable to a fine.

236. As from the day on which the creditors' meeting is held under section 235, this Act has effect as if;

- (a) the directors' declaration under section 229 had not been made, and
- (b) the creditors' meeting and the company meeting at which it was resolved that the company be wound up voluntarily were the meetings summoned in section 138 in the next Chapter and accordingly the winding up becomes a creditors' voluntary winding up.

237.(1)Where the Registrar has reasonable cause to believe that a company is not carrying on business or in operation, he may send to the company by post a letter inquiring whether the company is carrying on business or in operation.

(2) If the Registrar does not within thirty days of sending the letter receive any answer thereto, he shall within fourteen days after the expiration of that period send to the company by registered post a letter referring to the first letter, and stating that no answer thereto has been received, and that if an answer is not received to the second letter within thirty days from the date thereof, a notice will be published in the Official Gazette with a view to striking the name of the company off the register.

(3) If the Registrar either receives an answer to the effect that the company is not carrying on business or in operation, or does not within thirty

days after sending the second letter receive any answer, he may publish in the Gazette, and send to the company by post, a notice that at the expiration of three months from the date of the notice the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved:

Provided that, the Registrar shall not be required to send the letters referred to in subsections (1) and (2) in any case where the company itself or any director or the Secretary of the company has requested him to strike the company off the register or has notified him that the company is not carrying on business.

(4) If, in any case where a company is being wound up, the Registrar has reasonable cause to believe either that no liquidator is acting, or that the affairs of the company are fully wound up, and the returns required to be made by the liquidator have not been made for a period of six consecutive months, the Registrar shall publish in the Gazette and send to the company or the liquidator, if any, a like notice as is provided in subsection (3).

(5) At the expiration of the time mentioned in the notice, the Registrar may, unless cause to the contrary is previously shown by the company or the liquidator, as the case may be, strike its name off the register, and shall publish notice thereof in the Gazette, and on the publication in the Gazette of this notice the company shall be dissolved:

Provided that -

- (a) the liability, if any, of every director, officer and member of the company shall continue and may be enforced as if the company had not been dissolved; and
- (b) nothing in this subsection shall affect the power of the court to wind up a company the name of which has been struck off the register.

(6) If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register the Court on an application made by the company or member or creditor before the expiration of ten years from the publication in the Gazette of the notice above may, if satisfied that the company was at the time of the striking off carrying on business or in operation, or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, and upon a certified copy of the order being delivered to the Registrar for registration, the company shall be deemed to have continued in existence as if its name had not been struck off, and the court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.

(7) A notice to be sent under this section to a liquidator may be addressed to the liquidator at his last known place of business, and a letter or

notice to be sent under this section to a company may be addressed to the company at its registered office or, if it has no registered office, to the care of some officer of the company, or if there is no officer of the company whose name and address are known to the Registrar, may be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum.

PART VIII
COMPANIES INCORPORATED OUTSIDE ZANZIBAR

238.(1) This part shall apply to all foreign companies, that is, companies incorporated outside Zanzibar which after the appointed day, establish a place of business in Zanzibar, and to companies incorporated outside Zanzibar, which have before appointed day, established a place of business within Zanzibar and continue to have an established place of business within Zanzibar on and after appointed day.

(2) A foreign company shall not be deemed to have a place of business in Zanzibar solely on account of its doing business through an agent in Zanzibar at the place of business of an agent.

239.(1) Every foreign company which, after the appointed day, establishes a place of business in Zanzibar and every foreign company which on the appointed day has a place of business in Zanzibar shall within one month of the establishment of the place of business or within six months from the appointed day, deliver to the Registrar for registration:-

- (a) a certified copy of the charter, statutes or memorandum and articles of the company or other instrument constituting or defining the constitution of the company, and, if the instrument is not written in the English or Kiswahili language, a certified translation thereof;
- (b) a list of the directors and secretary of the company containing the particulars mentioned in subsection (2);
- (c) the names and addresses of some one or more persons resident in Zanzibar authorized to accept on behalf of the company service of process and any notice required to be served on the company

(2) The list referred to in paragraph (b) of subsection (1) shall contain the following particulars, that is to say -

- (a) with respect to each director;
 - (i) in the case of an individual, his present First name and surname and any former first name and surname, his usual residential address, his nationality and his business occupation, if any, or if he has no business occupation but

holds any other directorship or directorships, particulars of that directorship or of some one of those directorships; or

- (ii) in the case of a corporation, its corporate name and registered or principal office;
- (b) with respect to the secretary or, where there are joint secretaries, with respect to each of them:-
 - (i) in the case of an individual, his present First name and surname, any former First name and surname and his usual residential address; and;
 - (ii) in the case of a corporation, its corporate name and registered office;

Provided that, where all the partners in a firm are joint secretaries of the company, the name and principal office of the Firm may be stated instead of the particulars mentioned in paragraph (b) of this subsection;

Paragraphs (b), (c) and (d) of section 214(9) shall apply for the purpose of the construction of references in this subsection to present and former First names and surnames as they apply for the purpose of the construction of such references in that section.

240. A foreign company which has delivered to the Registrar the documents and particulars specified in section 239(1) and so long it is registered, shall have the same power to hold lands in Zanzibar in accordance with Land Tenure Act of 1994, as if it were a company incorporated under this Act.

241. If any alteration is made in:-

- (a) the charter, statues, or memorandum and articles of A foreign company or any such instrument as aforesaid; or
- (b) the directors or secretary of A foreign company or the particulars contained in the list of the directors and secretary; or
- (c) the names or addresses of the persons authorized to accept service on behalf of A foreign company;

The company shall, within the prescribed time, deliver to the Registrar for registration a return containing the prescribed particulars of the alteration.

242.(1) Every foreign company shall, in every calendar year, make out a balance sheet and profit and loss account and, if the company is a holding company, group accounts in such form, and containing such particulars and including such documents, as under the provisions of this Act (subject, however, to any prescribed exception) it would, if it had been a company within the meaning of this Act, have been required to make out and lay before the company in general meeting, and deliver copies of those documents to the

Registrar.

(2) If any such document as is mentioned in subsection (1) is not written in the English or Kiswahili language, there shall be annexed to it a certified English translation thereof.

243. Every foreign company shall:-

- (a) in every prospectus inviting subscriptions for its shares or debentures in Zanzibar shall state the country in which the company is incorporated; and
- (b) conspicuously exhibit on every place where it carries on business in Zanzibar the name of the company and the country in which the company is incorporated; and;
- (c) cause the name of the company and of the country in which the company is incorporated to be stated in legible Roman letters in all bill-heads and letter paper, and in all notices and other official publications of the company; and;
- (d) if the liability of the members of the company is limited, cause notice of that fact to be stated in legible Roman letters in every such prospectus as aforesaid and in all bill-heads, letter paper, notices and other official publications of the company in Zanzibar, and to be affixed on every place where it carries on its business.

244. Any process or notice required to be served on A foreign company shall be sufficiently served if addressed to any person whose name has been delivered to the Registrar under the foregoing provisions of this Part and left at or sent by post to the address which has been so delivered.

Provided that:-

- (a) where any such company makes default in delivering to the Registrar the name and address of a person resident in Zanzibar who is authorized to accept on behalf of the company service of process or notices; or
- (b) if any time all the persons whose names and addresses have been so delivered are dead or have ceased so to reside, or refuse to accept service on behalf of the company, or for any reason cannot be served;
- (c) a document may be served on the company by leaving it at or sending it by post to any place of business established by the company in Zanzibar.

245. If any foreign company ceases to have a place of business in Zanzibar, it shall forthwith give notice of the fact to the Registrar, and as from the date on which notice is so given, the obligation of the company to deliver and document

to the Registrar shall cease.

246. If any foreign company fails to comply with any of the foregoing provisions of this Part, the company, and every officer or agent of the company who knowingly and wilfully authorizes or permits the default, shall be liable to a fine, or, in the case of a continuing offence, to a default fine.

247. For the purposes of the foregoing provisions of this Part:-

"certified" means certified in the prescribed manner to be a true copy or a correct translation;

"director" in relation to a company includes any person in accordance with whose directions or instructions the directors of the company are accustomed to act;

"place of business" includes a share transfer or share registration office;

"prospectus" has the same meaning as when used in relation to a company incorporated under this Act.

"secretary" includes any person occupying the position of secretary by whatever name called.

248.(1) It shall not be lawful for any person to issue, circulate or distribute in Zanzibar any prospectus offering for subscription shares in or debentures of a company incorporated or to be incorporated outside Zanzibar, whether the company has or has not established, or when formed will or will not establish, a place of business in Zanzibar unless the prospectus is dated and:-

(a) Contains particulars with respect to the following matter:-

- (i) the instrument constituting or defining the constitution of the company
- (ii) the enactments, provisions having the force of an enactment, by or under which the incorporation of the company was effected;
- (iii) an address in Zanzibar where the said instrument, enactments or provisions, or copies thereof, and if the same are in a language other than English or Kiswahili translation thereof certified in the prescribed manner, can be inspected;
- (iv) the date on which and the country in which the company was incorporated;
- (v) whether the company has established a place of business in

Zanzibar, and, if so, the address of its principal office in Zanzibar.

- (b) subject to the provisions of this section, states the matters specified in the regulations made under this Act.

Provided that the provisions of sub-paragraphs (i), (ii) and (iii) of paragraphs (a) of this subsection shall not apply in the case of a prospectus issued more than two years after the date at which the company is entitled to commence business, and, in the application of the provisions of the regulations to this Act for the purposes of this subsection, paragraph 2 thereof shall have effect with the substitution, for the reference to the articles, of a reference to the constitution of the company.

(2) Any condition requiring or binding an application for shares or debentures to waive compliance with any requirement imposed by virtue of paragraph (a) or (b) of subsection (1), or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus, shall be void.

(3) It shall not be lawful for any person to issue in Zanzibar a form of application for shares in or debentures of such a company or intended company as is mentioned in subsection (1) of this section unless the form is issued with a prospectus which complies with this Part and the issue whereof in Zanzibar does not contravene the provisions of section 251.

Provided that this subsection shall not apply if it is shown that the form of application was issued in connection with a bona fide invitation to a person to enter into an underwriting agreement with respect to the shares or debentures.

(4) In the event of non-compliance with or contravention of any of the requirements imposed by paragraphs (a) and (b) of subsection (1) of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance or contravention, if:-

- (a) as regards any matter not disclosed, he proves that he was not cognizant thereof; or
- (b) he proves that the non-compliance or contravention arose from an honest mistake of fact on his part; or
- (c) the non-compliance or contravention was in respect of matters which, in the opinion of the court dealing with the case, were immaterial or were otherwise such as ought, in the opinion of that court, having regard to all the circumstances of the case, reasonably to be excused.

Provided that, in the event of failure to include in a prospectus a statement with respect to the matters contained in the regulations, no director or other person shall incur any liability in respect of

the failure unless proved that he had knowledge of the matters not disclosed.

(5) This section:-

- (a) shall not apply to the issue to existing members or debenture holders of a company of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant for shares or debentures will or will not have the right to renounce in favour of other persons; and
- (b) except in so far as it requires a prospectus to be dated, shall not apply to the issue of a prospectus relating to shares or debentures which are or are to be in all respects uniform with shares or debentures previously issued and for the time being dealt in or quoted on any recognized stock exchange in Zanzibar.

But, subject as aforesaid, this section shall apply to a prospectus or form of application whether issued on or with reference to the formation of a company or subsequently;

(6) Nothing in this section shall limit or diminish any liability which any person may incur under the general law of this Act, apart from this section.

249.(1) Where:-

- (a) it is proposed to offer to the public by a prospectus issued generally any shares in or debentures of a company incorporated or to be incorporated outside Zanzibar, whether the company has or has not established, or when formed will or will not establish a place of business in Zanzibar; and
- (b) application is made to any recognized stock exchange in Zanzibar for permission for those shares or debentures to be dealt in or quoted on that stock exchange;

there may on the request of the applicant be given by or on behalf of that stock exchange a certificate of exemption, that is to say, a certificate that, having regard to the proposals (as stated in the request) as to the size and other circumstances of the issue of shares or debentures and as to any limitation on the number and class of persons to whom the offer is to be made, compliance with the requirements of the regulations would be unduly burdensome.

(2) If a certificate of exemption is given, and if the proposals aforesaid are adhered to and the particulars and information required to be published in connection with the application for permission to the stock exchange are so published, then:-

- (a) a prospectus giving the particulars and information aforesaid in the form in which they are so required to be published shall be deemed to comply with the requirements of the regulations; and
- (b) except in so far as it requires a prospectus to be dated, section 248 shall not apply to any issue, after the permission applied for is given, of a prospectus or form of application relating to the shares or debentures.

250.(1) It shall not be lawful for any person to issue, circulate or distribute in Zanzibar any prospectus offering for subscription shares in or debentures of a company incorporated or to be incorporated outside Zanzibar, whether the company has or has not established, or when formed will or will not establish, a place of business in Zanzibar:-

- (a) if, where the prospectus includes a statement purporting to be made by an expert, he has not given, or has before delivery of the prospectus for registration withdrawn, his written consent to the issue of the prospectus with the statement included in the form and context in which it is included or there does not appear in the prospectus a statement that he has given and has not withdrawn in his consent as aforesaid; or
- (b) if the prospectus does not have the effect, where an application is made in pursuance thereof, of rendering all persons concerned bound by all the provisions (other than penal provisions) of sections 58 and 59 so far as applicable.

(2) In this section the expression "expert" includes engineer, valuer, accountant and any other person whose profession gives authority to a statement made by him, and for the purposes of this section, a statement shall be deemed to be included in a prospectus if it is contained therein or in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

251.(1) It shall not be lawful for any person to issue, circulate or distribute in Zanzibar any prospectus offering for subscription shares in or debentures of a company incorporated or to be incorporated outside Zanzibar, whether the company has or has not established, or when formed will or will not establish, a place of business in Zanzibar, unless before the issue, circulation or distribution of the prospectus in Zanzibar, a copy thereof certified by the chairman and two other directors of the company as having been approved by resolution of the managing body has been delivered for registration to the Registrar, and the prospectus states on the face of it that a copy has been so delivered, and there is indorsed on or attached to the copy:-

- (a) any consent to the issue of the prospectus required by section 250;
- (b) a copy of any contract required by regulations made under this Act

to be stated in the prospectus or, in the case of a contract not reduced into writing, a memorandum giving full particulars thereof, or, if in the case of a prospectus deemed by virtue of a certificate granted under section 249 to comply with the requirements of that Schedule, a contract or a copy thereof or a memorandum of a contract is required to be available for inspection in connection with the application under that section to the stock exchange in question, a copy or as the case may be a memorandum of that contract; and

- (c) where the persons making any report required by regulations made under of this Act, have made therein or have, without giving the reasons, indicated therein any such adjustments as are mentioned in regulations, a written statement signed by those persons setting out the adjustments and giving the reasons therefore.

(2) The references in subsection (1)(b) to the copy of a contract required thereby to be indorsed on or attached to a copy of the prospectus shall, in the case of a contract wholly or partly in a language other than English or Kiswahili be taken as references to a copy of a translation of the contract in English or Kiswahili, or a copy embodying a translation in English or Kiswahili of the parts in a foreign language, as the case may be, being a translation certified in the prescribed manner to be a correct translation, and the reference to a copy of a contract required to be available for inspection shall include a reference to a copy of a translation thereof or a copy embodying a translation of parts thereof.

252. Any person who is knowingly responsible for the issue, circulation or distribution of a prospectus, or for the issue of a form of application for shares or debentures, in contravention of any of the provisions of sections 248, 249, 250 and 251 shall be liable to a fine.

253. Section 51 shall extend to every prospectus offering for subscription shares in or debentures of a company incorporated or to be incorporated outside Zanzibar, whether the company has or has not established, or when formed will or will not establish, a place of business in Zanzibar, with the substitution, for references to section 48 of references to section 250.

254.(1) Where any document by which any shares in or debentures of a company incorporated outside Zanzibar are offered for sale to the public would, if the company concerned had been a company within the meaning of this Act, have been deemed by virtue of section 53 to be a prospectus issued by the company, that document shall be deemed to be, for the purpose of this Part, a prospectus issued by the company.

(2) An offer of shares or debentures for subscription or sale to any person whose ordinary business or agent, shall not be deemed an offer to the public for

the purposes of this Part.

(3) In this Part the expression "prospectus", "shares", and "debentures" have the same meanings as when used in relation to a company incorporated under this Act.

PART IX
GENERAL PROVISIONS AS TO REGISTRATION

255.(1) For the purposes of the registration of companies under this Act, there shall be offices in Zanzibar at such places as the Minister shall direct subject to the laws governing public services for the time being.

(2) The Minister may appoint assistant Registrars, as he thinks necessary for the registration of companies under this Act, and may make regulations with respect to their duties, and may remove any persons so appointed.

(3) Every assistant Registrar may, subject to the directions of the Registrar, perform any act or discharge any duty which the Registrar may lawfully do or is required by this Act to do, and for such purposes shall have all the powers, privileges and authority of the Registrar.

(4) The Minister may direct a seal to be prepared for the authentication of documents required for or connected with the registration of companies.

256.(1) In respect of the several matters mentioned in the first column of the table set out in regulations made under this Act, there shall, subject to the limitations imposed by provisions of that regulations, be paid to the Registrar the several fees specified in the second column of that table.

(2) The Minister, in consultation with the Registrar, may make regulations prescribing fees to be paid under this Act.

(3) All fees paid to the Registrar in pursuance of this Act shall be paid to the Consolidated Fund.

257.(1) Any person may:-

- (a) inspect the documents kept by the Registrar, on payment of such fee as maybe appointed by the Minister;
- (b) require a certificate of the incorporation of any company, or a copy or extract of any other document or any part of any other document, to be certified by the Registrar, on payment for the certificate, certified copy or extract of such fees as the Minister may appoint:

Provided that:

- (i) in relation to documents delivered to the Registrar with prospectus in pursuance of sub-paragraph (i) of paragraph

(b) of subsection (1) of section 49, the rights conferred by this subsection shall be exercisable only during the fourteen days beginning with the date of publication of the prospectus or with the permission of the Registrar, and in relation to documents so delivered in pursuance of paragraph (b) of subsection (1) of section 251 the said rights shall be exercisable only during the fourteen days beginning with the date of the prospectus or with the permission of the Registrar; and

- (ii) the right conferred by paragraph (a) of this subsection shall not extend to any copy sent to the Registrar by a receiver or manager of the whole or substantially the whole of the property of the company, appointed on behalf of the holders of any debenture of the company secured by a floating charge of a statement as to the affairs of a company or of any comments of the receiver or his successor or a continuing receiver or manager thereon, but only to the summary thereof, except where the person claiming the right either is or is the agent of a person stating himself in writing to be a member or creditor of the company to which the statement relates, and the right conferred by paragraph (b) of this subsection shall be similarly limited.

(2) No process for compelling the production of any document kept by the Registrar shall issue from any court except with the leave of that court, and any such process if issued shall bear thereon a statement that it is issued with the leave of the court.

(3) A copy of, or extract from, any document kept and registered at any of the offices for the registration of companies, certified to be a true copy under the hand of the Registrar (whose official position it shall not be necessary to prove), shall in all legal proceedings be admissible in evidence as of equal validity with the original document.

(4) Any person untruthfully stating himself in writing for the purposes of proviso (ii) to subsection (1) to be a member or creditor of a company shall be liable to a fine.

258. (1) If a company, having made default in complying with any provisions of this Act which requires it to file with, deliver or send to the Registrar any return, account or other document, or to give notice to him of any matter, fails to make good the default within fourteen days after the service of a notice on the company requiring it to do so, the court may, on an application made to the court by any member or creditor of the company or by the Registrar, make an order directing the company and any officer thereof to make good the default within such time as may be specified in the order.

(2) Any such order may provide that all costs of and incidental to the application shall be borne by the company or by any officers of the company responsible for the default.

(3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties on a company or its officers in respect of any such default as aforesaid

PART X
MISCELLANEOUS PROVISIONS WITH RESPECT TO BANKING
AND INSURANCE COMPANIES, AND CERTAIN SOCIETIES,
PARTNERSHIPS AND UNREGISTERED COMPANIES

259. No company, association or partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking, unless it is registered as a company under this Act, or is formed in pursuance to the laws governing banking and financial institutions.

260.(1) Where a banking company which was in existence on appointed day, proposes to register as a limited company, it shall, at least thirty days before so registering, give notice of its intention so to register to every person who has a banking account with the company, either by delivery of the notice to him, or by posting it to him at, or delivering it at, his last known address.

(2) If the company omits to give the notice required by this section, then, as between the company the person for the time being interested in the account in respect of which the notice ought to have been given, and so far as respects the account down to the time at which notice is given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

261.(1) Every company, being a limited banking company or an insurance company or a deposit, provident, or benefit society, shall before it commences business, and also on the first Monday in February and the first Tuesday in August in every year during which it carries on business, make a statement in the form set out in the regulations or as near thereto as circumstances admit.

(2) A copy of the statement shall be put up in a conspicuous place in the registered office of the company, and in every branch office or place where the business of the company is carried on.

(3) Every member and every creditor of the company shall be entitled to a copy of the statement, on payment of such sum as prescribed under the Regulations.

(4) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

(5) For the purposes of this Act a company which carries on the business of insurance in common with any other business or businesses shall be deemed to be an insurance company.

262. No company, association, or partnership consisting of more than twenty persons shall be formed for the purposes of carrying on any business (other than the business of banking) that has for its object the acquisition of gain by the company, association, or partnership, or by the individual members thereof, unless it is registered as a company under this Act, or is formed in pursuance of some other relevant laws.

PART XI GENERAL

263.(1) Any register, index, minute book or book of account required by this Act to be kept by a company may be kept neither by making entries in bound books or by recording the matters in question in any other manner.

(2) Where any such register, index, minute book or book of account is not kept by making entries in a bound book, but by some other means, adequate precautions shall be taken for guarding against falsification and facilitating its discovery, and where default is made in complying with this subsection, the company and every officer of the company who is in default shall be liable to a fine and further shall be liable to a default fine.

264.(1) A document may be served on a company by leaving it at or sending it by post to the registered office of the company in Zanzibar.

(2) A document may be served on the Registrar by leaving it at or sending it by post to his office.

265.(1) The Registrar may issue a certificate of good standing to confirm that a particular company legally exists, has complied with all administrative requirements as to its presence within the official registry, and has paid all government duties, and thus it is in good standing.

(2) The company may, upon payment of the prescribed fee, apply to the Registrar for a certificate of good standing, in writing and accompanied with evidence of information from relevant authorities.

266. No court subordinate to a Regional Magistrates' Court shall try any offence against this Act.

267. If any person in any return, report, certificate, balance sheet, or other document, required by or for the purposes of any of the provisions of this Act specified in the regulations made under this Act wilfully makes a statement false in any material particular, knowing it to be false, commits an offence, and

shall be liable on conviction to imprisonment for a term not exceeding two years, or to such a fine not exceeding two million, or both.

268. If any person, on examination on oath authorized under this Act or in any affidavit or deposition in or about the winding up of any company or otherwise in or about any matter arising under this Act, wilfully and corruptly gives false evidence, he shall be liable on conviction to imprisonment for a term not exceeding seven years, or to a fine not exceeding five million, or both.

269.(1) Whereby any provision in this Act is provided that a company and/or every officer of the company and/or any other person whomsoever shall be liable to a default fine, general fine and or any other financial penalty, the sums payable shall be determined in the manner provided in the Schedule of fines annexed to this Act.

(2) The Minister in consultation with Registrar may amend the Schedule of Fines and such amendment shall become binding upon publication in the Official Gazette.

(3) For the purpose of any enactment in this Act which provides that an officer of a company who is in default shall be liable to a fine or penalty, the expression "officer who is in default" means any officer of the company who knowingly and wilfully authorizes or permits the default, refusal or contravention mentioned in the enactment.

270. (1) If on an application made to a Judge of the High Court in chambers by the Director of Public Prosecutions there is shown to be reasonable cause to believe that any person has, while an officer of a company, committed an offence in connection with the management of the company's affairs and that evidence of the commission of the offence is to be found in any books or papers of or under the control of the company, an order may be made:-

- (i) authorizing any person named therein to inspect the said books or papers or any of them for the purpose of investigating and obtaining evidence of the offence; or
- (ii) requiring the secretary of the company or such other officer thereof as may be named in the order to produce the said books or papers or any of them to a person named in the order at a place so named.

(2) Subsection (1) shall apply also in relation to any books or papers of a person carrying on the business of banking so far as they relate to the company's affairs, as it applies to any books or papers of or under the control of the company, except that no such order as is referred to in paragraph (ii) thereof shall be made by virtue of this subsection.

271. The court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the

proceedings, or in or towards payment of the costs of the proceedings, or in or towards the rewarding the person on whose information or at whose suit the fine is recovered.

272. Nothing in this Act relating to the institution of criminal proceedings by the Director of Public Prosecutions shall be taken to preclude any person from instituting or carrying on any such proceedings.

273. Where proceedings are instituted under this Act against any person by the Attorney General or Director of Public Prosecutions, nothing in this Act shall be taken to require any person who has acted as advocate for the defendant to disclose any privileged communication made to him in that capacity.

274. Where a limited company is Plaintiff in any action or other legal proceeding, any judge having jurisdiction in the matter may, if it appears by credible testimony that there is reason to believe that the company will be unable to pay the costs of the Defendant if successful in his defence, require sufficient security to be given for those costs, and may stay all proceedings until the security is given.

275.(1) If in any proceeding for negligence, default, breach of duty or breach of trust against an officer of a company or a person employed by a company as auditor (whether he is or is not an officer of the company) it appears to the court hearing the case that that officer or person is or may be liable in respect of the negligence, default, breach of duty or breach of trust, but that he has acted honestly and reasonably, and that, having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused for the negligence, default, breach of duty or breach of trust, that court may relieve him, either wholly or partly, from his liability on such terms as the court may think fit.

(2) Were any such officer or person aforesaid has reason to apprehend that any claim will or might be made against him in respect of any negligence, default, breach of duty or breach of trust, he may apply to the court for relief, and the court on any such application shall have the same power to relieve him as under this section it would have had if it had been a court before which proceedings against that person for negligence, default, breach of duty or breach of trust had been brought.

276. Orders made by the High Court under this Act may be enforced in the same manner as orders made in a suit pending therein.

277.(1) The Minister shall have power by rules published in the Official Gazette to alter or add to the requirements of this Act as to the matters to be stated in a company's balance sheet, profit and loss account and group accounts, and in particular of those of the stated in regulations made under this Act; and any reference in this Act to the said regulations shall be construed as a reference

to that with any alterations or additions made by regulations for the time being in force under this subsection.

(2) The Minister may by regulation:-

- (a) after table A, the regulations provided that it does not increase the amount of fees payable to the Registrar, and the form prescribed in the regulations; and
- (b) alter or add to Tables B, C, D E and F in the First Schedule, and the forms in regulations;
and any such table or form when altered, shall be published in the Official Gazette, and thenceforth shall have the same force as if it were included in one of the Schedules to this Act, but no alteration made by the Minister in Table A shall affect any company registered before the alteration, or repeal as respects that company any portion of that Table.

(3) In addition to the powers hereinbefore conferred by this section, the Minister may make regulations providing for all or any matters which by this Act are to be prescribed by his authority.

278. The Companies Decree Cap. 153 is hereby repealed

**FIRST SCHEDULE
TABLE A, B, C, D, E and F
PART I
TABLE A
REGULATIONS FOR MANAGEMENT OF A PUBLIC
COMPANY LIMITED BY SHARES**

1. In these Regulations-

"the Act" means the Companies Act;

"the articles" means the articles of the company;

"clear days" in relation to the period of a notice means that period excluding the day when the notice is given or on which it is to take effect;

"the holder" in relation to shares means the member whose name is entered in the register of members as the holder of the shares;

"the seal" means the common seal of the company;

"secretary" means the secretary of the company or any person appointed to perform the duties of the secretary of the company.

Expressions referred to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography, and other modes of representing or reproducing words in a visible form.

Unless the context otherwise requires, words or expressions contained in these Regulations shall bear the same meaning as in the Act or any statutory modification thereof in force at the date at which these Regulations become binding on the company.

2. Subject to the provisions of the Act, and without prejudice to any rights attached to any existing shares, any share may be issued with such rights or restrictions, whether in regard to dividend, voting, return of capital or otherwise as the company may by ordinary resolution determine.

3. Subject to the provisions of section 66 of the Act, any shares may, with the sanction of an ordinary resolution, be issued on the terms that they are, or at the option of the company are liable, to be redeemed on such terms and in such manner as the company before the issue of the shares may by special resolution determine.

4. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, whether or not the company is being wound up, be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of a special resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these Regulations relating to general meetings shall apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one third of the issued shares of the class and that any holder of shares of the class present in person or by proxy may demand a poll.

5. The rights conferred upon the holders of the shares of any class shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking pari passu therewith.

6. The company may exercise the powers of paying commissions conferred by section 61 of the Act. Subject to the provisions of the Act, such commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in one way and partly in the other.

7. Except as required by law, no person shall be recognized by the company as holding any share upon any trust, and the company shall not be bound by or be compelled in any way to recognize (even when having notice thereof) any equitable, contingent, future or partial interest in any share or any interest in any fractional part of a share or (except as otherwise provided by the articles or by law) any other rights or interests in respect of any share except an absolute right

to the entirety thereof in the registered holder.

8. Every member, upon becoming the holder of any shares, shall be entitled without payment to receive within two months after allotment or lodgement of transfer (or within such other period as the conditions of issue shall provide) one certificate for all the shares of each class held by him (and, upon transferring a part of his holding of shares of any class, to a certificate for the balance of such holding) or several certificates each for one or more of his shares upon payment for every certificate after the first such reasonable sum as the directors may determine. Every certificate shall be sealed with the seal and shall specify the number, class and distinguishing numbers (if any) of the shares to which it relates and the amount or respective amounts paid thereon.

Provided that, in respect of a share of shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one joint holder shall be sufficient delivery to all joint holders.

9. If a share certificate is defaced, worn out, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity and payment of expenses reasonably incurred by the company in investigating evidence as the directors may determine but otherwise free of charge, and (in the case of defacement or wearing out) on delivery up of the old certificate.

10. The company shall not give, whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of or in connection with a purchase or subscription made or to be made by any person of or for any share in the company or in its holding company nor shall the company make a loan for any purpose whatsoever on the security of its shares or those of its holding company, but nothing in this regulation shall prohibit transactions mentioned in the proviso to section 62(1) of the Act.

11. The company shall have a first and paramount lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this regulation. The company's lien, if any, on a share shall extend to any amounts payable in respect of it.

12. The company may sell, in such manner as the directors determine, any shares on which the company has a lien if a sum in respect of which the lien exists is presently payable and is not paid within fourteen clear days after a notice in writing has been given the holder of the share, or the person entitled thereto by reason of the death or bankruptcy of the holder, demanding payment and stating that if the notice is not complied with the shares may be sold.

13. To give effect to any such sale the directors may authorise some person to transfer the shares sold to, or in accordance with the directions of the

purchaser thereof. The purchaser shall be registered as the holder of the shares comprised in any such transfer, and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

14. The net proceeds of the sale shall be received by the company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue, if any, shall (upon surrender to the company for cancellation of the certificate for the shares sold and subject to a like lien for sums not presently payable as existed upon the shares before the sale) be paid to the person entitled to the shares, at the date of the sale.

15. Subject to the terms of allotment, the directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares (whether in respect of nominal value or premium) and not by the conditions of allotment thereof made payable at fixed times, provided that no call shall exceed one-fourth of the nominal value of the share or be payable at less than one month from the date fixed for the payment of the last preceding call, and each member shall (subject to receiving at least fourteen clear days notice specifying when and where payment is to be made) pay to the company as required by the notice the amount called on his shares. A call may be required to be paid by instalments. A call may, before receipt by the company of any sum due thereunder, be revoked in whole or part and payment of a call may be postponed in whole or part. A person upon whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the shares in respect of which the call was made.

16. A call shall be deemed to have been made at the time when the resolution of the directors authorising the call was passed.

17. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

18. If a call remains unpaid after it has become due and payable, the person from whom the sum is due shall pay interest on the amount unpaid from the day it became due and payable to the time of actual payment at the rate fixed by the term of allotment of the share or, if no rate is fixed, at a rate not exceeding five percent per annum as the directors may determine, but the directors may waive payment of such interest wholly or in part.

19. An amount payable in respect of a share on allotment or at any fixed date, whether in respect of nominal value or premium or as an instalment of a call, shall be deemed to be a call, and if it is not paid the provisions of the articles shall apply as if that amount had become due and payable by virtue of a call.

20. Subject to the terms of allotment, the directors may, on the issue of shares, differentiate between the holders as to the amount of calls to be paid and

the times of payment.

21. The directors may, if they think fit, receive from any member willing to advance the same, all or any part of the moneys uncalled and unpaid upon any shares held by him, and upon all or any of the moneys so advanced may (until the same would, but for such advance, become payable) pay interest at such rate not exceeding (unless the company in general meeting shall otherwise direct) six per cent per annum, as may be agreed upon between the directors and the members paying such sum in advance.

22. The instrument of transfer of any share shall be in any usual form or any other form which the directors may approve and shall be executed by or on behalf of the transferor and, unless the share is fully paid up, by or on behalf of the transferee, and the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.

23. The director may refuse to register the transfer of a share which is not fully paid to a person of whom they do not approve and they may refuse to register the transfer of a share on which the company has a lien.

24. The directors may also refuse to register a transfer unless:-

- (a) it is lodged at the office or such other place as the directors may appoint, and is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer; and
- (b) it is in respect of only one class of share; and
- (c) it is in favour of not more than four transferees.

25. If the directors refuse to register a transfer they shall within sixty days after the date on which the transfer was lodged with the company send to the transferee notice of the refusal.

26. The registration of transfers of shares or any transfers of any class of shares may be suspended at such times and for such periods (not exceeding thirty days in any year) as the directors may determine.

27. No fee shall be charged by the company for the registration of any instrument of transfer or other document relating to or affecting title to any share.

28. In case of the death of a member, the survivor or survivors where the deceased was a joint holder, and the personal representatives of the deceased where he was a sole holder or the only survivor of joint holders, shall be the only persons recognised by the company as having any title to his interest in the shares; but nothing herein contained shall release the estate of a deceased

member from any liability in respect of any share which had been jointly held by him.

29. Any person becoming entitled to a share in consequence of the death or bankruptcy of a member may, upon such evidence being produced as may properly be required by the directors and subject as hereinafter provided, either elect by notice to the company to be registered as holder of the share, or elect to have some person nominated by him registered as the transferee in which case he shall execute the appropriate instrument of transfer.

30. If the person so becoming entitled shall elect to be registered himself, he shall deliver or send to the company a notice in writing signed by him stating that he so elect. If he shall elect to have another person registered he shall testify his election by executing to that person a transfer of the shares. All the articles relating to the right to transfer of shares shall apply to any such notice or transfer as if it were an instrument of transfer executed by the member and the death or bankruptcy of the member had not occurred.

31. A person becoming entitled to a share by reason of the death or bankruptcy of the holder shall have the rights to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as the holder of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

32. If a call remains unpaid after it has become due and payable, the directors may give to the person from whom it is due not less than fourteen clear days notice requiring payment of the amount unpaid, together with any interest which may have accrued.

33. The notice shall name the place where payment is to be made and shall state that if the notice is not complied with, the shares in respect of which the call was made will be liable to be forfeited.

34. If the notice is not complied with, any share in respect of which it was given may, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect and the forfeiture shall include all dividends or other moneys payable in respect of the forfeited shares and not paid before the forfeiture.

35. Subject to the provisions of this Act, a forfeited share may be sold, re-allotted or otherwise disposed of on such terms and in such manner as the directors determine either to the person who was before the forfeiture the holder or to any other person, and at any time before a sale, re-allotment or other disposition the forfeiture may be cancelled on such terms as the directors think fit. Where for the purposes of its disposal a forfeited share is to be transferred to any person, the directors may authorise some person to execute an instrument of transfer of the share in question.

36. A person any of whose shares have been forfeited shall cease to be a member in respect of the forfeited shares and shall surrender to the company for cancellation the certificate for the shares forfeited, but shall remain liable to the company for all moneys which, at the date of forfeiture, were payable by him to the company in respect of the shares, but his liability shall cease if and when the company shall have received payment in full of all such moneys in respect of the shares, but the directors may waive payment wholly or in part or enforce payment without any allowance for the value of the shares at the time of forfeiture for any consideration received on their disposal.

37. A statutory declaration by a director or the secretary that a share has been forfeited on a date stated in the declaration shall be conclusive evidence of the facts stated therein as against all persons claiming to be entitled to the share, and the declaration shall (subject to the execution of an instrument of transfer if necessary) constitute a good title to the share, and the person to whom the share is disposed of shall not be bound to see to the application of the consideration, if any, nor shall his title to the share be affected by any irregularity or invalidity of the proceedings in reference to the forfeiture or disposal of the share.

38. The provision of these regulations as to forfeiture shall apply in the case of non-payment of any sum which by terms of issue of a share becomes payable at a fixed time, whether on account of the nominal value of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

39. The company may by ordinary resolution convert any paid up shares into stock, and reconvert any stock into paid - up shares of any denomination.

40. The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations, as and subject to which the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; and the directors from time to time fix the minimum amount of stock transferable but so that such minimum shall not exceed the nominal amount of the shares from which the stock arose.

41. The holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages as regards dividends, voting at the meeting of the company and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company and in the assets on winding up) shall be conferred by an amount of stock which would not, if existing in shares, have conferred that privilege or advantage.

42. Such of the regulation of the company as are applicable to paid up shares shall apply to stock, and the words "share" and "shareholder" therein shall include "stock" and "stockholder"

43. The company may from time to time, by ordinary resolution:-

- (a) increase its share capital by new shares of such amount, as the resolution prescribes;
- (b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
- (c) subject to the provisions of section 70(1)(d) of the Act, subdivide its exist-ing shares, or any of them, into shares of smaller amount than is fixed by the memorandum of association;
- (d) cancel shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person and diminish the amount of it share capital by the amount of the shares so cancelled.

44. Whenever as a result of a consolidation of shares any members would become entitled to fractions of a share, the directors may, on behalf of those members, sell the shares representing the fractions for the best price reasonably obtainable to any person (including subject to the provisions of this Act, the company) and distribute the net proceeds of sale in due proportion among those members, and the directors may authorise some person to execute an instrument of transfer of the shares to or in accordance with the directions of the purchaser. The transferee shall not be bound to see to the application of the purchase money nor shall his title to the share be affected by any irregularity in or invalidity of the proceedings in reference to the sale.

45. Subject to the provisions of the Act, the company may by special resolution reduce its share capital, any capital redemption reserve fund or any share premium account in any way.

46. The company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one annual general meeting of the company and that of the next.

47. All general meetings other than annual general meetings shall be called extra-ordinary general meetings.

48. The directors may, whenever they think fit, call an extra-ordinary general meeting, and extra-ordinary general meetings shall also be convened on such requisitionists, or, in default, maybe convened by such requisitionists, as provided by section 137 of the Act. If at any time there are not within the territory sufficient directors to call the meeting, any director or any two members of the company may call the meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

49. Every general meeting shall be called by twenty one clear days notice in writing. The notice shall specify the time and place of the meeting and the general nature of the business and, in the case of an annual general meeting, shall specify the meeting as such;

Provided that a meeting of the company may be called by shorter notice if it is so agreed:-

- (a) in the case of an annual general meeting, by all the members entitled to attend and vote thereat; and
- (b) in the case of any other meeting by a majority in number of the members having a right to attend and vote at the meeting, being a majority together holding not less than 95 per cent in nominal value of the shares giving that right.

50. Subject to the provisions of the articles and to any restrictions imposed on any shares, the notice shall be given to all the members, to all persons entitled to a share in consequence of the death or bankruptcy of a member and to the directors and auditors. The accidental omissions to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at the meeting.

51. All business shall be deemed special that is transacted at an extra ordinary gen-eral meeting, and also all that is transacted at an annual general meeting, with the exception of declaring a dividend, the consideration of the accounts, and the reports of the directors and auditors, the election of directors in the place of those retiring and the appointment of, and the fixing of the remuneration of, the auditors.

52. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; two persons entitled to vote on the business to be transacted, each being a member or a proxy for a member or a duly authorised representative of a corporation, shall be a quorum.

53. If within half an hour from the time appointed for the meeting a quorum is not present, or if during the course of a meeting a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week, at the same time and place or to such other day at such other time and place as the directors may determine.

54. The chairman, if any, of the board of directors or in his absence some other director nominated by the directors shall preside as chairman of the general meeting, but if neither the chairman nor such other director (if any) be present within fifteen minutes after the time appointed for the holding of the meeting and willing to act, the directors present shall elect one of their number to be chairman of the meeting and, if there is only one director present and willing to act, he shall be chairman.

55. If at any meeting no director is willing to act as chairman or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their number to be

chairman of the meeting.

56. A director shall, notwithstanding that he is not a member, be entitled to attend and speak at a general meeting and at any separate meeting of the holders of any class of shares in the company.

57. The chairman may, with the consent of any meeting at which a quorum is present and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven clear days and the general nature of the business to be transacted at an adjourned meeting.

58. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:-

- (a) by the chairman or;
- (b) by at least two members having the right to vote at the meeting; or
- (c) by a member or members representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting; or
- (d) by a member or members holding shares conferring a right to vote at the meeting being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right; and
- (e) by a person as proxy for a member shall be the same as a demand by the member.

59. Unless a poll be so demanded, a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be evidence of that fact.

60. The demand for a poll may, before the poll is taken, be withdrawn.

61. Except as provided in article 54, if a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

62. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting shall be entitled to a casting vote in addition to any other vote he may have.

63. A poll demanded on the election of a chairman or on a question of adjournment shall be taken immediately. A poll demanded on any other question shall be taken either immediately or at such time not being more than thirty days after the poll is demanded as the chairman of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll.

64. A resolution in writing executed by or on behalf of each member who would have been entitled to vote upon it if it had been proposed at a general meeting at which he was present shall have effect as if it had been passed at a general meeting duly con-vened and held, and may consist of several instruments in the like form each executed by or on behalf of one or more members.

65. Subject to any rights or restrictions attached to any share or class or classes of shares, on a show of hands every member (being an individual) present in person or (being a corporation) present by a duly authorised representative, not being himself a member entitled to vote, and on a poll every member shall have one vote for each share of which he is the holder.

66. In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

67. A member in respect of whose estate a manager has been appointed under provisions related to mental diseases, may vote, whether on a show of hands or on a poll, by his manager, and any such manager may, on a poll, vote by proxy.

68. No member shall be entitled to vote at a general meeting or at a separate meeting of the holders of any class of shares in the company unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

69. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any objection made in due time shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.

70. On a poll votes may be given either personally or by proxy. A member may appoint more than one proxy to attend on the same occasion.

71. The instrument appointing proxy shall be in writing executed by or on behalf of the appointer or of his attorney duly authorised in writing, or, if the appointer is a corporation, either under seal, or under the hand of an officer or attorney duly authorised. A proxy need not be a member of the company.

72. The instrument appointing a proxy and any authority under which it is executed a copy of that authority certified notarially or in such other manner as approved by the directors shall be deposited at the registered office of the company or at such other place within the Zanzibar as is specified for that purpose in the notice convening the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid.

73. An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:

" _____ Limited " _____ I/we
_____ of _____ being _____ a
Member/members of the above named company, hereby
appoint _____ of _____ or failing him,
_____ of _____ as my/our proxy to vote for me/us on
my/our behalf at the (annual or extraordinary, as the case may be) general
meeting of the company to be held on the _____ day of _____, 20___, and
at any adjournment thereof.

Signed this _____ day of _____, 20___,"

74. Where it is desired to afford members an opportunity of voting for or against a resolution the instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:

" _____ Limited " _____ I/we
_____ of _____ being _____ a
Member/members of the above named company, hereby
appoint _____ of _____ or failing him,
_____ of _____ as my/our proxy to vote for me/us
on my/our behalf at the (annual or extraordinary, as the case may be) general
meeting of the company to be held on the _____ day of _____, 20___, and
at any adjournment thereof.

Signed this _____ day of _____, 20___,"

This form is to be used * in favour of/against resolutions etc. Unless otherwise instructed, the proxy will vote as he thinks fit or abstain from voting.

75. The instrument appointing a proxy shall be deemed to confer authority to de-mand or join in demanding a poll.

76. A vote given in accordance with the terms of an instrument of proxy, or poll demanded by proxy, or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination was received by the company at its registered office (or at such other place at which

the instrument or proxy was duly de-positied) before the commencement of the meeting or adjourned meeting at which the proxy is used.

77. Any corporation which is a member of the company may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the company or of any class of members of the company, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the company

78. The number of the directors and the names of the first directors shall be determined in writing by the subscribers of the memorandum of association or a majority of them and until such determination the signatories to the Memorandum of Association shall be the first directors. Unless otherwise determined by ordinary resolution, the number of directors shall not be subject to any maximum but shall be not less than two.

79. The shareholding qualification for directors may be fixed by the company in general meeting, and unless and until so fixed no qualification shall be required.

80. Subject to the provisions of the Act, the memorandum and the articles and to any directions given by special resolution, the business of the company shall be managed by the directors, who may exercise all the powers of the company. No alteration of the memorandum or articles and no such directions shall invalidate any prior act of the directors which would otherwise have been valid. The powers given by this article shall not be limited by any special power given to the directors by the articles and a meeting of directors at which a quorum is present may exercise all powers exercisable by the directors.

81. The directors may by power of attorney appoint any person to be the attorney or agent of the company for such purposes and on such conditions as they determine, including authority for the attorney or agent to delegate all or any of his powers.

82. The directors may exercise all the powers of the company to borrow money, and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof, and to issue debentures, debenture stock, and other securities whether outright or as security for any debt, liability or obligation of the company or of any third party.

83. The company may exercise the powers conferred by sections 125 to 128 of the Act with regard to the keeping of a branch register, and the directors may (subject to the provisions of those sections) make and vary such regulations as they may think fit respecting the keeping of any such register.

84. The directors may appoint one or more of their number to the office of managing director or to any other executive office under the company and may enter into an agreement or arrangement with any director for his employment by

the company or for the provision by him of any services outside the scope of the ordinary duties of a director. Any such appointment, agreement or arrangement may be made on such terms as the directors determine and they may remunerate any such director for his services as they think fit. Any appointment of a director to an executive office shall terminate if he ceases to be a director, but without prejudice to any claim to damages for breach of the contract of service between the director and the company. A managing director and a director holding any other executive office shall not be subject to retirement by rotation.

85. A director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company shall declare the nature of his interest at a meeting of the directors in accordance with section 212 of the Act.

86. Subject to the provisions of the Act, and provided that he has disclosed to the directors the nature and extent of any material interest of his, a director notwithstanding his office:-

- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the company or in which the company is otherwise interested;
- (b) may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in any body corpo-rate promoted by the company or in which the company may be interested;
- (c) shall not, by reason of his office, be accountable to the company for any benefit which he derives from any such office or employment remuneration or other benefits received by him as a director or officer of, or from his interest in, such other company unless the company otherwise directs.

87. For the purposes of articles 76 and 77:-

- (a) a general notice given to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in such transaction of the nature and extent specified; and
- (b) an interest of which a director has no knowledge and of which it is unreason-able to expect him to have knowledge shall not be treated as an interest of his.

88. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for moneys paid to the company, shall be signed, drawn accepted, endorsed, or otherwise executed in such manner as the directors shall from time to time by resolution determine.

89. The directors shall cause minutes to be made in books kept for the purpose of:-

- (a) all appointments of officers made by the directors;
- (b) the names of the directors present at each meeting of the directors and of any committee of the directors;
- (c) all resolutions and proceedings at all meetings of the company, of the holders of any class of shares in the company, and of the directors, and of committees of directors.

90. The remuneration of the directors shall be determined by ordinary resolution of the company and, unless the resolution otherwise provides, such remuneration shall be deemed to accrue from day to day. The directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the directors or any committee of the directors or general meetings or separate meetings of the holders of any class of shares or of debentures of the company or otherwise in connection with the business of the company.

91. The directors on behalf of the company may pay a gratuity or pension or allowance on retirement to any director who had held any other salaries office or place of profit with the company or to his widow or dependants and may make contributions to any fund and pay premiums for the purchase or provisions of any such gratuity, pension or allowance.

92. The office of director shall be vacated if the director:-

- (a) ceases to be a director by virtue of any provision of the Act or he becomes prohibited by law from being a director; or
- (b) becomes bankrupt or makes any arrangement or composition with his creditors generally; or
- (c) becomes of unsound mind; or
- (d) resigns his office by notice in writing to the company; or
- (e) shall for more than six consecutive months have been absent without permission of the directors from meetings of the directors held during that period and the directors resolve that his office be vacated.

93. The company may by ordinary resolution appoint a person who is willing to act to be a director either to fill a vacancy or to be an additional director.

94. The directors may appoint a person who is willing to act to be a director,

either to fill a vacancy or as an additional director, provided that the total number of directors does not exceed the number fixed by or in accordance with these articles. A director so appointed shall hold office only until the next following annual general meeting, and shall then be eligible for re-election.

95. The company may by ordinary resolution, of which special notice has been given in accordance with section 147 of the Act, remove any director before the expiration of his period of office notwithstanding anything in these articles or in any agreement between the company and the director. Such removal shall be without prejudice to any claim the director may have for damages for breach of any service contract with the company.

96. The company may by ordinary resolution appoint another person in place of a director removed from office under the immediately preceding regulation, and without prejudice to the powers of the directors under article 85 the company may by ordinary resolution appoint any person to be a director either to fill a vacancy or as an additional director.

97. Subject to the provisions of the articles, the directors may regulate their meetings as they think fit. Questions arising at a meeting shall be decided by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote. A director may, and the secretary at the request of a director shall, call a meeting of the directors. It shall not be necessary to give notice of a meeting of directors to any director who is absent from the Zanzibar.

98. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall be two.

99. The continuing directors may act notwithstanding any vacancy in their number, but, if their number is reduced below the number fixed as the necessary quorum, the continuing directors or director may act only for the purpose of filling vacancies or of calling a general meeting.

100. The directors may appoint one of their number to be the chairman of the board of directors and determine the period of which he is to hold office. Unless he is unwilling to do so, the director so appointed shall preside at every meeting of directors as which he is present. But if no such chairman is appointed, or if he is unwilling to preside, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, directors present may choose one of their number to be chairman of the meeting.

101. The directors may delegate any of their powers to any committee consisting of one or more directors; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the directors. Subject to any such regulations, the proceedings of a Committee with two or more members shall be governed by the articles regulating the proceedings of directors so far as they are capable of applying.

102. Acts done by a meeting of the directors or of a committee of directors or by a person acting as a director shall, notwithstanding that it be after-wards discovered that there was some defect in the appointment of any such director, or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director and was entitled to vote.

103. A resolution in writing, signed by all the directors entitled to receive notice of a meeting of the directors, or of a committee of directors, shall be as valid and effectual as if it had been passed at a meeting of the directors or (as the case may be) a committee of directors duly convened and held, and may consist of several documents in the like form each signed by one or more directors.

104. Save as otherwise provided in the articles, a director shall not vote at a meeting of directors or of a committee of directors on any resolution concerning a matter in which he has, directly or indirectly, an interest or duty which is material and which conflicts or may conflict with the interests of the company. Subject to and in accordance with the provisions of the Act, an interest of a person who is connected with a director shall be treated as an interest of the director.

105. A director shall not be counted in the quorum present at a meeting in relation to a resolution on which he is not entitled to vote.

106. The company may by ordinary resolution suspend or relax to any extent, either generally or in respect of any particular matter, any provision of the articles prohibiting a director from voting at a meeting of directors or of a committee of directors.

107. Where proposals are under consideration concerning the appointment of two or more directors to offices or employment with the company or any body corporate in which the company is interested, the proposals may be divided and considered in relation to each director separately and (provided he is not for another reason precluded from voting) each of the directors concerned shall be entitled to vote and be counted in the quorum in respect of each resolution except than concerning his own appointment.

107. If a question arises at a meeting of directors or of a committee of directors as to the right of a director to vote, the question may, before the conclusion of the meeting, be referred to the chairman of the meeting and his ruling in relation to any director other than himself shall be final and conclusive.

109. The secretary shall be appointed by the directors for such term, at such

remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.

110. A provision of the Act or these Regulations requiring or authorising a thing to be done by or to a director and the secretary shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, the secretary.

111. The seal shall only be used by the authority of the directors or of a committee of the directors authorised by the directors. The directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a director and by the secretary or by a second director.

112. Subject to section 183 of the Act, the company may by ordinary resolution declare dividends in accordance with the respective rights of the members, but no dividend shall exceed the amount recommended by the directors,

113. Subject to the provisions of the Act, the directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company available for distribution.

114. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for any purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit. The directors may also without placing the same to reserve carry forward and any profits which they may think prudent not to divide.

115. Except as otherwise provided by the rights attached to shares, all dividends shall be declared and paid according to the amounts paid on the shares in respect of which the dividend is paid. All dividends shall be apportioned and paid proportionately to the amounts paid on the shares during any portion or portions of the period in respect of which the dividend is paid; but if any share is issued on terms providing that it shall rank for dividend as from a particular date, that share shall rank for dividend accordingly.

116. Any general meeting declaring a dividend may, upon the recommendation of the directors, direct payment of such dividend wholly or partly by the distribution of assets and, where any difficulty arises in regard to the distribution, the directors may settle the same, and in particular may issue fractional certificates and fix the value for distribution of any assets and may determine that cash payments shall be made to any members upon the footing of the value so fixed in order to adjust the rights of members, and may vest any assets in trustees.

117. Any dividend, interest or other moneys payable in cash in respect of shares may be paid by cheque sent through the post to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named in the register of members or to such person and to such address as the holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent, and payment of the cheque shall be a good discharge to the company Any one of two or more joint holders may give effectual receipts for any dividends or other moneys payable in respect of the shares held by them as joint holders.

118. No dividend or other moneys payable in respect of a share shall bear interest against the company unless otherwise provided by the rights attached to the share.

119. Any dividend which has remained unclaimed for twelve years from the date when it became due for payment shall, if the directors so resolve, be forfeited and cease to remain owing by the company.

Accounts

120. The directors shall cause proper books of account to be kept with respect to:-

- (a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;
- (b) all sales and purchases of goods by the company; and
- (c) the assets and liabilities of the company.

Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the company's affairs and to explain its transactions.

121. The books of account shall be kept at the registered office of the company, or, subject to section 153(4) of the Act, at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

122. No member shall (as such) have any right of inspecting any accounting records or other book or document of the company except as conferred by statute or authorised by the directors or by ordinary resolution of the company.

123. The directors shall, in accordance with sections 155, 157 and 163 of the Act, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts, balance sheets, cash flow statements, group accounts (if any) and reports as are referred to in those sections.

124. In accordance with section 168 of the Act, the copy of the company's

annual accounts to be laid before the company in general meeting together with a copy of the director's report and the auditor's report shall not less than twenty one days before the date of the meeting be sent to every member of, and every holder of debentures of, the company. Provided that this regulation shall not require a copy of those documents to be sent to any person of whose address the company is not aware or to more than one of the joint holders of any shares or debentures.

125. The directors may, with the authority of an ordinary resolution of the company:-

- (a) Resolve to capitalise any part of the amount for the time being standing to the credit of any of the company's reserve accounts or to the credit of the profit and loss account or otherwise available for distribution, and that such sum be capitalised to the members who would have been entitled to it were distributed by way of dividend and in the same proportions and apply such sum either in or towards paying up any amounts for the time being unpaid on any shares held by such members respectively or in paying up in full in issued shares or debentures of the company to be allotted and distributed;
- (b) Make such provision the issue of fractional certificates or by payment in cash or otherwise as they think fit for the case of shares or debentures becoming distributable in fractions, and authorise any person to enter on behalf of all the members entitled thereto into an agreement with the company providing for the allotment to them respectively, credited as fully paid up, of any shares or debentures to which they are entitled upon such capitalisation, and any agreement made under such authority shall be effective and binding on all such members.

126. Auditors shall be appointed and their duties regulated in accordance with sections 165 to 168 of the Act.

127. Any notice to be given to or by any person pursuant to the articles shall be in writing except that a notice calling a meeting of directors need not be in writing. The company may give any notice to a member wither personally or by sending it by post in a prepaid envelope addressed to the member at his registered address, or by leaving it at that address. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, preparing, and posting a letter containing the notice, and to have been effected at the expiration of (seventy two) hours after the letter containing the same was posted. A member whose registered address is not within the Zanzibar and who gives to the company an address within the Zanzibar at which notices may be given him shall be entitled to receive any notice from the company.

129. A notice may be given by the company to the joint holders of a share by giving the notice to the joint holder first named in the register of members in respect of the share.

130. A notice may be given by the company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending or delivering it, in any manner authorised by the articles, addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description, at the address, if any, within the Zanzibar supplied for the purpose by the persons claiming to be so entitled. Until such an address has been supplied, a notice may be given in any manner in which it might have been given if the death or bankruptcy had not occurred.

131. A member present, either in person or by proxy, at any meeting of the company or of the holders of any class of shares in the company shall be deemed to have received.

132. Subject to the provisions of the Act, but without prejudice to any indemnity to which a director may otherwise be entitled, every director or other officer or auditor of the company shall be indemnified out of the assets of the company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under section 261 of the Act in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the company.

**PART II
REGULATIONS FOR MANAGEMENT OF A PRIVATE
COMPANY LIMITED BY SHARES**

1. The regulations contained in Part I of Table A shall apply save for article 22.

2. The company is a private company and accordingly:-

- (a) the right to transfer shares is restricted in manner hereinafter prescribed;
- (b) the number of members of the company is limited to fifty as further provided for in the Act;
- (c) any invitation to the public to subscribe for any shares or debenture of the public is prohibited;
- (d) the company shall not have power to issue share warrants to bearer.

3. The directors may, in their absolute discretion and without assigning any

reason thereof, decline to register any transfer of any share, whether or not it is a fully paid share.

TABLE B
FORM OF MEMORANDUM OF ASSOCIATION OF
A COMPANY LIMITED BY SHARES

1st The name of the company is " _____ Limited".

2nd The registered office of the company is situated at _____

3rd The Objects for which the company is established are,

4th The liability of the members is limited.

5th The share capital of the company is _____ shillings divided into _____ shares of shillings _____ each.

WE, the persons whose names and addresses are subscribed, desire to be formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, address and description of subscriber	Number of Shares taken by each Subscriber	Signatures of of subscribers
1.		
2.		
3.		
4.		
5.		
6.		
7.		

Total shares taken _____

Witness (legal practitioner) to the above signatures.

Name:.....

Address:.....

Qualification:.....

Dated this ___ day of _____, 20__

TABLE C
FORM OF MEMORANDUM AND ARTICLES OF ASSOCIATION

**OF A COMPANY LIMITED BY GUARANTEE,
AND NOT HAVING A SHARE CAPITAL**

1st The name of the company is " _____ Limited".

2nd The registered office of the company is situated at _____

3rd The Objects for which the company is established are,

4th The liability of the members is limited.

5th Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding shillings

WE, the persons whose names and addresses are subscribed, desire to be formed into a company, in pursuance of this memorandum of association.

Names, address and occupations of
subscriber

Signatures of
subscribers

- 1.
- 2.
- 3.
- 4.
- 5.

Witness to the above signatures.

Name:.....

Address:.....

Qualification:.....

Signature:.....

Dated this ___ day of _____, 20___

**ARTICLES OF ASSOCIATION TO A COMPANY PRECEDING
MEMORANDUM OF ASSOCIATION**

1. In these articles:-

"Act" means the Companies Act;

"articles" means the articles of the company;

"clear days" in relation to the period of a notice means that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;

"seal" means the common seal of the company;

"Secretary" means any person appointed to perform the duties of the secretary of the company.

Expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photograph, and other modes of representing or reproducing words in a visible form.

Unless the context otherwise requires, words or expressions contained in these articles shall bear the same meaning as in the Act or any statutory modification thereof in force at the date at which these articles become binding on the company.

2. The number of members with which the company proposes to be registered is but the directors may from time to time register an increase of members.

3. The subscribers to the memorandum of association and such other persons as the directors shall admit to membership shall be members of the company.

4. The Company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notice calling it; and not more than fifteen months shall elapse between the date of one annual general meeting of the company and that of the next:

Provided that so long as the company holds its first annual general meeting within eighteen months of its incorporation, it need not hold it in the year of its incorporation or in the following year. The annual general meeting shall be held at such time and place as the directors shall appoint.

5. All general meetings other than annual general meetings shall be called extraordinary general meetings.

6. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists, as provided by section 136 of the Act. If at any time there are not within the Zanzibar sufficient directors capable of acting to form a quorum, any director or any two members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

7. Every general meeting shall be called by twenty one clear days notice in writing at the least. The notice shall specify the place, the day and hour of meeting and, in case of special business, the general nature of that business:

Provided that a meeting of the company shall, notwithstanding that it is called by shorter notice than that specified in this article be deemed to have been duly called if it so agreed-

- (a) in the case of a meeting called as the annual general meeting, by all the members entitled to attend and vote thereat; and
- (b) in the case of any other meeting, by a majority in number of the members having a right to attend and vote at the meeting, being a majority together representing not less than ninety five percent of the total voting rights at that meeting of all the members.

8. Subject to the provisions of the articles, the notice shall be given to all the members, to all persons entitled to a share in consequence of the death or bankruptcy of a member and to the directors and auditors. The accidental omission to give notice of a meeting to, or the non receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

9. All business shall be deemed special that is transacted at an extraordinary general meeting, and also all that is transacted at an annual general meeting, with the exception of declaring a dividend, the consideration of the accounts, balance sheets, and the reports of the directors and auditors, the election in the place of those retiring and the appointment of, and the fixing of the remuneration of the auditors.

10. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; two persons, entitled to vote on the business to be transacted, each being a member or a proxy for a member or a duly authorised representative of a corporation, shall be a quorum.

11. If within half an hour from the time appointed for the meeting a quorum is not present, or if during the course of a meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week, at the same time and place, or to such other day and at such other time and place as the directors may determine.

12. The chairman, if any, of the board of directors or in his absence some other director nominated by the directors shall preside as chairman of the general meeting, but if neither the chairman nor such other director (if any) be present within fifteen minutes after the time appointed for the holding of the meeting and willing to act, the directors present shall elect one of their number to be chairman of the meeting and, if there is only one director present and willing to act, he shall be chairman.

13. If at any meeting no director is willing to act as chairman or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their number to be a chairman of the meeting.

14. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven clear days notice of the adjourned meeting shall be given specifying the time and place of the meeting and the general nature of the business to be transacted. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

15. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands demanded):-

- (a) by the chairman; or
- (b) by at least three members present in person or by proxy; or
- (c) by any member or members present in person or by proxy and representing not less than one tenth of the total voting rights of all the members having the right to vote at the meeting.

Unless a poll be so demanded a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost and an entry to the effect in the book containing the minutes of proceedings of the company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

The demand for a poll may, before the poll is taken, be withdrawn.

16. Except as provided in article 18, if a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

17. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting shall be entitled to a second or casting vote.

18. A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken immediately. A poll demanded on any other question shall be taken either immediately or at such time as the chairman of the meeting directs, and any business other than upon which a poll has been

demande may be proceeded with pending the taking of the poll.

19. A resolution in writing executed by or on behalf of each member who would have been entitled to vote upon it if it had been proposed at a general meeting at which he was present shall have effect as if it had been passed at a general meeting duly convened and held, and may consist of several instruments in the like form each executed by or on behalf of one or more member.

20. Every member shall have one vote.

21. No member shall be entitled to vote at any general meeting unless all moneys presently payable by him to the company have been paid.

22. On a poll votes may be given either personally or by proxy.

23. The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing, or, if the appointer is a corporation, either under seal or under the hand of an officer or attorney duly authorised. A proxy need not be a member of the company.

24. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notary certified copy of that power or authority shall be deposited at the registered office of the company or at such other place within the Territory as is specified for that purpose in the notice convening the meeting, not less than 48 hours before the time for holding the meeting of adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid.

25. An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:

" _____ Limited" I/we _____
of _____ being _____ a Member/members of the
above named company, hereby appoint _____ of _____ or
failing him, _____ of _____ as my/our proxy to vote
for me/us on my/our behalf at the (annual or extraordinary, as the case may be)
general meeting of the company to be held on the _____ day of _____,
20____, and at any adjournment thereof.

Signed this _____ day of _____, 20____,"

26. Where it is desired to afford members an opportunity of voting for or against a resolution the instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:-

" _____ Limited" I/we _____
of _____ being _____ a Member/members of

the above named company, hereby appoint _____ of _____ or failing him, _____ of _____ as my/our proxy to vote for me/us on my/our behalf at the (annual or extraordinary, as the case may be) general meeting of the company to be held on the _____ day of _____, 20__, and at any adjournment thereof.

Signed this _____ day of _____, 20__,

This form is to be used * in favour of /against the resolution. Unless otherwise instructed, the proxy will vote as he thinks fit.

*Strike out whichever is not desired.

27. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

28. A vote given in accordance with the terms of an instrument of proxy, or poll demanded by proxy, or by the duty authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll unless notice of the determination was received by the company at its registered office (or at such other place at which the instrument of proxy was duly deposited) before the commencement of the meeting or adjourned meeting at which the proxy is used.

29. Any corporation which is a member of the company may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting Of the company, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the company.

30. The Number of the directors and the names of the first directors shall be determined in writing by the subscribers of the memorandum of association or a majority of them and until such determination the signatories to the Memorandum of Association shall be the first directors. Unless otherwise determined by ordinary resolution, the number of directors shall not be subject to any maximum but shall be not less than two.

31. The remuneration of the directors shall from time to time be determined by the Company in general meeting. Such remuneration shall be deemed to accrue from day to day. The directors shall also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the directors or any committee of the directors or general meetings of the company or in connection with the business of the company.

32. The director may exercise all the powers of the company to borrow money, and to mortgage or charge its undertaking and property, or any part

thereof, and to issue debentures, debenture stock and other securities, whether outright or as security for any debt, liability or obligation of the company or any third party.

33. Subject to the provisions of the Act, the memorandum and the articles and to any directions given by special resolution, the business of the company shall be managed by the directors, who may exercise all the powers of the company. No alteration of the memorandum or articles and no such directions shall invalidate any prior act of the directors which would otherwise have been valid. The powers given by this article shall not be limited by any special power given to the directors by the articles and a meeting of directors at which a quorum is present may exercise all powers exercisable by the directors.

34. The directors may by power of attorney appoint any person to be the attorney or agent of the company for such purposes and on such conditions as they determine, including authority for the attorney or agent to delegate all or any of his powers.

35. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for moneys paid to the company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as they case may be, in such manner as the directors shall from time to time by resolution determine.

36. The directors shall cause minutes to be made in books provided for the purpose:-

- (a) of all appointments of officers made by the directors;
- (b) of the names of the directors present at each meeting of the directors and of any committee of the directors;
- (c) of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors.

37. The office of director shall be vacated if the director:-

- (a) without the consent of the company in general meeting holds any other office of profit under the company; or
- (b) becomes bankrupt or makes any arrangement or composition with his creditors generally; or
- (c) ceases to be a director by virtue of any provision of the Act or becomes prohibited by law from being a director; or
- (d) becomes of unsound mind; or
- (e) resigns his office by notice in writing to the company; or
- (f) is directly or indirectly interested in any contract with the

company and fails to declare the nature of his interest in manner required by the Act.

A director shall not vote in respect of any contract in which he is interested or any matter arising thereat, and if he does so vote shall not be counted.

38. The company may by ordinary resolution appoint a person who is willing to act as director to fill a vacancy or be an additional director.

39. The directors may appoint a person who is willing to act to be a director, either to fill a vacancy or as an additional director, but so that the total number of directors shall not at anytime exceed the number fixed by or in accordance with these articles. Any director so appointed shall hold office only until the next following annual general meeting, and shall then be eligible for re-election.

40. The company may by ordinary resolution, of which special notice had been given in accordance with section 147 of the Act, remove any director before the expiration of his period of office notwithstanding anything in the article or any agreement between the company and such director. Such removal shall be without prejudice to any claim such director may have for damages for breach of any contract of service between him and the company.

41. The company may by ordinary resolution appoint another person in place of a director removed from office under the immediately preceding article. Without prejudice to the powers of the directors under article 40 the company in general meeting may appoint any person to be a director either to fill a vacancy or as an additional director.

42. Subject to the provisions of the articles, the directors may regulate their meetings as they think fit. Questions arising at a meeting shall be decided by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote. A director may, and the secretary at the request of a director shall, call a meeting of the directors. It shall not be necessary to give notice of a meeting of directors to any director who is absent from Zanzibar.

43. The quorum necessary for the transaction of the business of the directions may be fixed by the directors, and unless so fixed shall be two.

44. The continuing directors may act notwithstanding any vacancy but, if and so long as their number is reduced below the number fixed by or pursuant to the articles of the company as the necessary quorum of directors, the continuing directors or director may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

45. The directors may appoint one of their number to be the chairman of the board of directors and determine the period of which he is to hold office. Unless

he is unwilling to do so, the director so appointed shall preside at every meeting of directors at which he is present. But if no such chairman is appointed, or if he is unwilling to preside, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

46. The directors may delegate any of their powers to any committee consisting of one or more directors; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the directors. Subject to any other regulations, the proceedings of a committee with two or more members shall be governed by the articles regulating the proceedings of directors so far as they are capable of applying.

47. All acts done by a meeting of the directors or of a committee of directors or by a person acting as a director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such director, or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director and was entitled to vote.

48. A resolution in writing, signed by all the directors entitled to receive notice of a meeting of the directors, or of a committee of directors, shall be as valid and effectual as if it had been passed at a meeting of the directors or (as the case may be) a committee of directors duly convened and held, and may consist of several documents in the like form each signed by one or more directors.

49. The secretary shall be appointed by the directors for such term, at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.

50. A provisions of the Act or these articles requiring or authorising a thing to be done by or to a director and the secretary shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, the secretary.

51.The seal shall only be used by the authority of the directors or of a committee of the directors authorised by the directors. The directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a director and by the secretary or by a second director.

52. The directors shall cause proper books of account to be kept with respect to:-

- (a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes

place;

- (b) all sales and purchase of goods by the company; and
- (c) the assets and liabilities of the company.

Property books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the company's affairs and to explain its transactions.

53. The books of account shall be kept at the registered officer of the company, or subject to section 153(3) of the Act, at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

54. No member shall have any right of inspecting any accounting records or other book or document of the company except as conferred by statute or authorised by the directors or by ordinary resolution of the company.

55. The directors shall from time to time in accordance with sections 155, 157 and 163 of the Act, cause to be prepared and to be laid before the company in general meeting, such profit and loss accounts, balance sheets, group accounts, if any, and reports as are referred to in those sections.

56. In accordance with sections 163 and 164 of the Act, the copy of the company's annual accounts to be laid before the company in general meeting together with a copy of the director's report and the auditor's report shall not less than twenty-one days before the date of the meeting be sent to every member of, and every holder of debentures of, the company. Provided that this regulation shall not require a copy of those documents to be sent to any person of whose address the company is not aware or to more than one of the joint holders of any debentures.

57. Auditors shall be appointed and their duties regulated in accordance with sections 165 to 168 of the Act.

58. Any notice to be given to or by any person pursuant to the articles shall be in writing except that a notice calling a meeting of directors need not be in writing. The company may give any notice to a member either personally or by sending it by post in a prepaid envelope addressed to the member at his registered address, or by leaving it at that address. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and to have been effected at the expiration of seventy-two hours after the letter containing the same was posted. A member whose registered address is not within the Zanzibar and who gives to the company an address within the Zanzibar at which notices may be given him shall be entitled to have notices given to him at that address, but otherwise no such member shall be entitled to receive any notice from the company.

Name, address and description of subscriber	Number of Shares taken by each Subscriber	Signature of subscribers
1.		
2.		
3.		
4.		
5.		
6.		
7.		
Total shares taken _____		
Witness to the above signatures.		
Name:.....		
Address:.....		
Qualification:.....		
Signature:.....		
Dated this ___ day of _____, 20__		
<p>TABLE D MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND HAVING A SHARE CAPITAL</p>		
<p>Memorandum of Association is</p>		
1 st The name of the company is " _____ Limited".		
2 nd The registered office of the company is situated at _____		
3 rd The Objects for which the company is established are,		
4 th The liability of the members is limited.		
5 th Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding shillings		
6 th The share capital of the company shall consist of shillings _____ divided into _____ shares of _____ shillings each.		

We, the persons whose names and addresses are subscribed, desire to be formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, address and description of subscriber	Number of Shares taken by each Subscriber	Signatures of subscribers
--	---	---------------------------

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.

Witness to the above signatures.

Name:.....

Address:.....

Qualification:.....

Signature:.....

Dated this ____ day of _____, 20__

**ARTICLES OF ASSOCIATION TO A COMPANY PRECEDING
MEMORANDUM OF ASSOCIATION**

1. The number of members with which the company proposes to be registered is, but the directors may from time to time register an increase of members.

2. The regulations of table A set out in the Schedule to the Companies Act shall be deemed to be incorporated with these articles and shall apply to the company.

We, the persons whose names and addresses are subscribed, desire to be formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, address and occupations of
Signatures of
subscriber
subscribers

- 1.

- 2.
- 3.
- 4.
- 5.

Witness to the above signatures.

Name:.....

Address:.....

Qualification:.....

Signature:.....

Dated this _____ day of _____, 20____

**TABLE E
REGULATIONS FOR MANAGEMENT
OF A SINGLE MEMBER PRIVATE COMPANY LIMITED**

1. In the interpretation of these articles the following expressions shall have the following meanings unless repugnant to or inconsistent with the subject articles:-

- (a) "alternate nominee director" means an individual nominated by the single member to act as nominee director in case of non-availability of nominee director;
- (b) "company" or "this company" means XYZ (SMC-Private) Limited;
- (c) "directors" or "board of directors" means board of directors so that it may consist of only the sole director or more than one directors if so appointed under the relevant provisions of the Act;
- (d) "in writing" means written or printed or partly written and partly printed or lithographed or typewritten or other substitute for writing;
- (e) "member director" means an individual becoming director due to membership of the company in terms of section 186;
- (f) "nominee director" means an individual nominated by the single member to act as director in case of death of single member;
- (g) "private company" means a private company other than a single member company;
- (h) "rule" means the rule of the Single Member Companies Rules;

- (i) "section" means section of the Companies Act; and
- (j) "sole director" means the director of the company who is for the time being the only director and the single member of the company.

2. Any provision of the Act or rules and regulations made thereunder which apply in relation to a private company limited by shares incorporated under the Act shall, in the absence of any express provision to the contrary, apply in relation to a single member company as it applies in relation to such a company which is formed by two or more persons or which has two or more persons as members.

3. The company is a single member company and as such being a private company limited by shares:-

- (a) it shall not issue invitation to the public to subscribe for any share of the company;
- (b) the company shall not register any share(s) in the name of two or more persons to hold one or more shares individually or jointly; and
- (c) number of the members of the company shall be limited to one.

4. The company may increase the nominal share capital in accordance with sections 71.

5. Share certificate(s) shall be issued under the seal of the Company and shall be signed by the member director, and in case of his death, by the nominee director and the secretary.

6. The company may, upon passing of a special resolution, issue further shares or transfer existing shares or part thereof causing the number of members to become two or more in accordance with the rules but it shall become a private company thereafter.

7. The company shall not transfer all of the shares of a single member to two or more persons or part of shares of single member to other person(s) or allot further shares to any person other than the single member or, at any time, allow transfer of shares or allotment of shares or both resulting in number of members to become two or more, except under the authority of a special resolution for change of status from single member company to private company and to alter its articles accordingly.

8. The single member may transfer all of his shares to a single person under the authority of an ordinary resolution whereby the company shall remain a single member company as it was before such transfer.

9. A person whose name is entered as a member in the register of members shall be entitled to receive, within ninety days after allotment or within forty five days of the application for registration of transfer, a certificate under the seal specifying the share or shares held by him.

10. Transfer and transmission of shares shall be in accordance with provisions of sections 79 to 86.

11. In case of death of the single member, the power to register or refuse transfer of shares shall be exercised by the secretary and the nominee director under the rules.

12. If the company allots further shares or the shares held by the single member are transferred in total or in part and as a result thereof the company becomes a private company, the fact that it has converted from a single member company to a private company and number of its members has increased to two or more shall be recorded in the register of members along with the date of the event and the particulars of the members.

13. Transmission of shares to the legal heirs shall be recorded in the register of members by the secretary and the nominee director.

Change of Status

14. The company may convert itself from single member private company to a private company in accordance with the provisions of rule 4.

15. A general meeting, to be called annual general meeting, shall be held, in accordance with the provisions of section 136 and rule 5.

16. All general meetings of the company other than an annual general meeting as specified in section 137 shall be called extraordinary general meetings and shall be deemed to be held in accordance with the provisions of rule 5.

17. The secretary shall attend all the meetings of the company but shall have no vote.

18. In case where the law specifies time period for giving of notice of any meeting of the members or of director(s), requirements of the law shall be deemed to have been complied with if both the secretary and the members are notified of the meeting and they attend such meeting provided that in case of annual general meeting the time period for giving of notice to the auditor of the company shall not be less than twenty one days.

19. The single member present in person or through proxy shall be the quorum for the general meeting provided that secretary shall not act as proxy of the single member.

20. If the single member takes any decision which is required to be taken in

a meeting of the board or in the general meeting or by means of a resolution and such decision is delivered by the single member in writing, within three days of such decision, to the company for entry in the minute book and is so recorded, that decision shall be valid as if agreed in such a meeting.

21. The company shall always have the single member as a director but it, may have such number of other director who fulfill the conditions as specified in section 189.

22. The board or the general meeting shall not have the power to remove the member director but the single member (or member director) shall have the power to remove any director, chief executive or secretary through a resolution.

23. The director shall have the powers as specified in section 36.

24. The director shall appoint a chief executive in accordance with the provisions of sections 17 and 38.

25. The director shall cause minutes to be made in books as required under section 151.

26. A single member private limited company shall appoint a secretary in terms of sections 191, 192 and rule 6 who shall be responsible for discharge of duties and functions normally discharged by a secretary under the corporate laws and secretarial practice.

27. The secretary shall be appointed at the time of incorporation and subsequently on the same day or the day next following his resignation or removal or in case of his death within seven days of the event.

28. The sole director shall not be the secretary of the company.

29. Contract between the company and single member shall be made in accordance with the provisions of rule 8.

30. The company may declare dividends and pay in accordance with the provisions of section 184.

31. The director(s) shall cause to keep proper books of account in accordance with the provisions of section 154 and shall, as required by sections 156, 158 and 164, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts or income and expenditure accounts and balance sheets duly audited and reports as are referred to in those sections. They shall in all respects comply with the provisions of section 154 to 160.

32. So long as the company has only one director, the requirements of section 241 shall be deemed to have been met if the balance sheet and profit and

loss account is authenticated by the sole director.

33. Auditors shall be appointed and their duties regulated in accordance with the provisions of sections 166 to 169.

34. The director shall provide for the safe custody of the seal and the seal shall not be affixed to any instrument except by the authority of a resolution of the board of directors or by a committee of director authorized in that behalf by the member director and in the presence of at least member director and of the secretary or such other person as the director may appoint for the purpose; and the member director and the secretary or other person as aforesaid shall sign every instrument to which the seal of the company is affixed in their presence.

TABLE F
MEMORANDUM AND ARTICLES OF ASSOCIATION. OF AN
UNLIMITED COMPANY HAVING A SHARE CAPITAL
Memorandum of Association

1st The name of the company is "

2nd The objects for which the company is established are

We, the persons whose names and addresses are subscribed, desire to be formed into a company, in pursuance of this memorandum of association, and we respectively agree to

take the number of shares in the capital of the company set opposite our respective names.

Names, address and
occupations of subscriber

Signatures of
subscribers

- 1.
- 2.
- 3.
- 4.
- 5.

Witness to the above signatures.

Name:.....

Address:.....

Qualification:.....

Signature:.....

Dated this ____ day of _____, 20__

**ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING
MEMORANDUM OF ASSOCIATION**

1. The number of members with which the company proposes to be registered is, but the directors may from time to time register an increase of members.

2. The share capital of the company is _____shillings divided into _____ shares of shillings _____ each.

3. The company may by special resolution:-

- (a) increase the share capital by such sum to be divided into shares of such amount as the resolution may prescribe;
- (b) consolidate its shares into shares of a larger amount than its existing shares;
- (c) sub-divide its shares into shares of a smaller amount than its existing shares;
- (d) cancel any shares which at the date of the passing of the resolution have not been taken or agreed to be taken by any person;
- (e) reduce its share capital in any way.

4. The regulations of Table A set out in the Schedule to the Companies Act (other than regulations 34 to 36 inclusive) shall be deemed to be incorporated with, these articles and shall apply to the company.

Signatures of subscribers

Dated this..... day of 20.....

Witness to the above signatures

SECOND SCHEDULE

Section 269

FINES, DEFAULT FINES AND SUMMARY CONVICTIONS

Made under section 269 of the Companies Act 2013

1 Citation, commencement and interpretation "Default Fine"

1.1 For the purposes of section 269 of the Act, the amount of a daily default fine is two percent of the fine that is imposed for the initial commission of the offence for each day of continued default.

2 Punishment of Offences under the Act

- 2.1 The Schedule to this Act has effect with respect to the way in which Offences under the Act are punishable on conviction.
- 2.2 The first column of the Schedule specifies an offence under the Act. The second column of the Schedule describes the general nature of the offence. The third column of the Schedule shows the maximum punishment by way of fine, which may be imposed on a person convicted of the offence.
- 2.3 The following maximum Grades of fine apply to offences under the Act:
- (a) Grade A - forty thousand shillings. (This is the highest Grade of fine, reserved for the gravest offences under the Act).
 - (b) Grade B - twenty five thousand. (This Grade of fine is in respect of serious offences)
 - (c) Grade C - fifteen thousandshillings. (This is the lowest Grade of fine, reserved for minor offences under the Act)

SCHEDULE

Section of Act creating the offence	General nature of the offence	Maximum Punishment
	FINES	
19(7) <i>C]</i>	Body altering the provisions of its memorandu or articles without the consent of the Registrar	Fine: <i>[Grade</i>
20(4) <i>C]</i>	Company failing to change name on direction of the Registrar.	Fine: <i>[Grade</i>
21(4) <i>B]</i>	Improper use of "limited" for company not incorporated with limited liability	Fine: <i>[Grad</i>
45(3) <i>A]</i>	Private company offering shares to the public or allotting shares with a view to their being so offered.	Fine: <i>[Grade</i>
47(3)(b) <i>A]</i>	Prospectus inconsistent with regulations.	Fine: <i>[Grade</i>
48(2)	Prospectus issued in contravention of section 48	Fine: <i>[Grade</i>

	A] 49(4)	Prospectus issued without a copy being delivered to the registrar, or delivered without the required documents.	Fine: [Grade B]
	B] 56(4)	Failure to comply with provisions relating to prohibition of allotment and statement in lieu of a prospectus.	Fine: [Grade A]
	A] 58(3)	Company failing to comply with section 58 (provisions relating applications for, and allotment of, shares and debentures).	Fine: [Grade B]
	B] 59(3)	Company failing to comply with section 59 (provisions relating allotment of shares and debentures to be dealt in on stock exchange)	Fine: [Grade B]
	B] 60(3)	Company failing to deliver to the Registrar a return of allotments.	Fine: [Grade B]
	B] 61(4)	Company failing to deliver to the Registrar the statement in the prescribed form specified under the provisions of the section 61.	Fine: [Grade B]
	Section of Act creating the	General nature of the offence	Maximum Punishment offence
	62(2)	Company giving financial assistance for subscription for its own or holding company's shares.	Fine: [Grade A] purchase or
	74(4)	Company failing to advertise a special resolution reducing its share capital.	Fine: [Grade B]
	94(4)	Company refusing to permit debenture holders or shareholders to inspect register of debenture holders, or to refusing to supply copy of trust deed.	Fine: [Grade B]
	104(2)	Person authorizing delivery of debenture of certificate of debenture stock without endorsement of certificate of registration given under Section 103(3).	Fine: [Grade C]

	107(3)	Failing to give notice to the Registrar of appointment of receiver or manager, or of his ceasing to act.	Fine: <i>[Grade C]</i>
	109(2)	Officer of company authorizing or permitting omission from company register of charges.	Fine: <i>[Grade C]</i>
	110(2)	Officer of company refusing inspection of charging instrument or of register of charges.	Fine: <i>[Grade C]</i>
	113(2)	Company failing to paint or affix its name on the outside of its office or place of business.	Fine: <i>[Grade C]</i>
	113(3)	Company failing to have its name engraved on its seal or failing to have its name and registered office mentioned on its letters and publications.	Fine: <i>[Grade B]</i>
	113(4) <i>[Grade C]</i>	Use of seal or issue of letter or invoice where company name or registered office not correctly stated thereon.	Fine:
	Section of Act creating the	General nature of the offence	Maximum Punishment offence
	114(2)	Company failing to state amount of paid up capital where authorized capital stated.	Fine: <i>[Grade C]</i>
	115(6)	Company commencing business or exercising borrowing powers in breach of section 115(1).	Fine: <i>[Grade B]</i>
	119(3)	Refusal of inspection of members' register or failure to send copy of register on request.	Fine: <i>[Grade B]</i>
	135(9)	Failure to comply with provisions section 138 (relating to statutory meeting and statutory report).	Fine: <i>[Grade A]</i>
	140(2)	Company failing to state in notice calling meeting that members may vote by proxy.	Fine: <i>[Grade C]</i>
	141(4)	Invitations to vote by proxy sent to only some of members.	Fine: <i>[Grade C]</i>
	145(7) <i>[Grade B]</i>	Officer of company in default as to circulation of members' resolution for company meeting.	Fine:

148(6)	Company failing to send copies of resolution or agreement to Registrar.	Fine: <i>[Grade C]</i>
152(3)	Refusal of inspection minutes of general meeting; failure to send copy of minutes to member on request.	Fine: <i>[Grade B]</i>
161(4)	Director approving accounts which do not comply with requirements of act.	Fine: <i>[Grade A]</i>
162(3)	Laying, circulating or delivering balance sheet, profit and loss account and Auditors' report without complying with provisions of section 162.	Fine: <i>[Grade C]</i>
164(3)	Failing to send annual accounts, directors' report and auditors' report to those entitled to receive them.	Fine: <i>[Grade C]</i>
Section of Act creating the offence	General nature of the offence	Maximum Punishment
168(4)	Person not qualified so to act appointed as Auditor.	Fine: <i>[Grade B]</i>
170(3)	Officer of company failing to produce, books or furnish information following an order under section 170.	Fine: <i>[Grade A]</i>
194(4)	Person not qualified so to act appointed as Director.	Fine: <i>[Grade B]</i>
195(5)	Unqualified person acting as director.	Fine: <i>[Grade B]</i>
199(2)	Person failing to give required notice of age or acting as director under invalid or terminated appointment.	Fine: <i>[Grade B]</i>
207(2)(b)	Director failing to send notice payment for loss of office etc...	Fine: <i>[Grade B]</i>
209(8)	Company failing to keep a register of directors' shareholdings, or refusing inspection of such register or failing to deliver a copy when required or produce such register at annual general meeting.	Fine: <i>[Grade C]</i>
212(4)	Failure to comply with provisions of section 212 (duty to make disclosure for	Fine: <i>[Grade B]</i>

	purpose of sections 209, 210 and 211).	
213(4)	Director failing to disclose interest in a contract.	Fine: <i>[Grade A]</i>
215(6)(b)	Company failing to keep service contracts of directors, or refusing inspection of such contracts or failing to deliver notice to Registrar.	Fine: <i>[Grade C]</i>
220(4)	Company failing to comply with requirements of section 220 (circulation of information as to compromise).	Fine: <i>[Grade B]</i>
Section of nature of the offence	Maximum	General
Act creating the offence		
220(5)	Failure of director of the company and trustee for debenture holders to give notice to the company.	Fine: <i>[Grade B]</i>
225(2)	Failure to give notice of resolution to up wind	Fine: <i>[Grade B]</i>
229(6)	Failure to deliver the declaration of solvency to the Registrar.	Fine: <i>[Grade B]</i>
233(3)	Failure of liquidator to convene a general meeting in case of winding up continuing for more than one year.	Fine: <i>[Grade B]</i>
234(4)	Failure to deliver a copy of account or return.	Fine: <i>[Grade B]</i>
234(6)	Failure to convene a meeting prior to dissolution.	Fine: <i>[Grade B]</i>
246	Foreign company failing to comply with the provisions of Part VI of the Act.	Fine: <i>[Grade C]</i>
252	Contravention of any of the provisions of sections 248 to 251.	Fine: <i>[Grade A]</i>
259(4)	Person untruthfully stating himself to be member or creditor of a company.	Fine: <i>[Grade A]</i>
263(2)	Company failing to keep register, index, minute book or book of account, e.t.c.	Fine: <i>[Grade C]</i>
	Trading or carrying on business with improper use of "limited"	Fine: <i>[Grade C]</i>

DEFAULT FINE

7(7) Company failing to give notice or deliver any document to the Registrar as required by section 7(6). Fine: *[Grade C]*

Section of nature of the offence	Maximum	General
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9(3) Company failing to give the Registrar notice of an increase in the number of a company's members beyond the registered number. Fine: *[Grade C]*

19(8) Body altering the provisions of its memorandum or articles without the consent of the Registrar. Fine: *[Grade C]*

20(4) Company failing to change name on direction of the Registrar. Fine: *[Grade C]*

21(4) Trading or carrying on business with improper use of the word "limited" Fine: *[Grade B]*

26(2) Company failing to send to one of its members a copy of the memorandum or articles, when so required by the member. Fine: *[Grade C]*

27(2) Where company's memorandum altered, company issuing copy of the Memorandum without the alteration. Fine: *[Grade C]*

32(3) Failure to deliver statement in lieu of prospectus to Registrar Fine: *[Grade B]*

65(3) Company failing to contain particulars of the discount allowed in the prospectus issuing shares at a discount. Fine: *[Grade B]*

70(2) Company failing to give notice to the Registrar of a consolidation, division, conversion, redemption or cancellation of shares. Fine: *[Grade C]*

71(3) Company failing to give notice to Registrar of increase in share capital beyond the registered capital. Fine: *[Grade C]*

Section of nature of the offence Act creating Punishment the offence	General Maximum
78(5) Company failing to deliver copy of order made under section 78 to Registrar	Fine: <i>[Grade C]</i>
85(2) Company failing to send notice of a refusal to register a transfer of any shares or debentures.	Fine: <i>[Grade C]</i>
87(2) Company failing to complete certificates following allotment or transfer.	Fine: <i>[Grade C]</i>
101(3) Company failing to deliver to the Registrar particulars of charge created by it or issue of debentures which requires registration.	Fine: <i>[Grade A]</i>
102(2) Company failing to deliver to the Registrar particulars of charge on property acquired.	Fine: <i>[Grade A]</i>
113(2) Company failing to paint or affix its name on the outside of its office or place of business.	Fine: <i>[Grade C]</i>
116(4) Company failing to keep register of members, or failing to send notice to Registrar of place where register of members is kept.	Fine: <i>[Grade C]</i>
117(4) Company failing to keep index of members.	Fine: <i>[Grade C]</i>
125(3) Company failing to give notice to the Registrar in respect of branch register.	Fine: <i>[Grade C]</i>
126(7) Company failing to transmit to its registered office copy of entry in branch register, or to keep a duplicate of it branch register.	Fine: <i>[Grade C]</i>
129(3) Company having share capital failing to make annual return.	Fine: <i>[Grade B]</i>
130(3) Company not having share capital failing to deliver annual return.	Fine: <i>[Grade B]</i>
Section of nature of the offence Act creating Punishment the offence	General Maximum

131(2)	Company failing to complete annual return in complying with section 131.	Fine: <i>[Grade B]</i>
132(3)	Company failing to annex required documents to the annual return.	Fine: <i>[Grade B]</i>
136(5)	Company default in holding annual general meeting.	Fine: <i>[Grade A]</i>
148(5)	Company failing to send copies of resolution or agreement to Registrar.	Fine: <i>[Grade C]</i>
151(4)	Company failing to keep minutes of proceedings at company and board meetings.	Fine: <i>[Grade C]</i>
164(3)	Failing to send annual accounts, directors' report and auditors' report to those entitled to receive them.	Fine: <i>[Grade C]</i>
166(3)	Company failing to give notice to Court that no auditor appointed or re-appointed.	Fine: <i>[Grade C]</i>
167(4)	Company failing to give notice to Court that auditor removed from office.	Fine: <i>[Grade C]</i>
209(8)	Company failing to keep a register of directors' shareholdings, or refusing inspection of such register or failing to deliver a copy when required or produce such register at annual general meeting.	Fine: <i>[Grade B]</i>
214(7)	Company failing to keep a register of directors and secretaries, or refusing inspection of such register or failing to deliver return to Registrar.	Fine: <i>[Grade B]</i>
215(6)(b)	Company failing to keep service contracts of directors, or refusing inspection of such contracts or failing to deliver notice to Registrar.	Fine: <i>[Grade B]</i>
	Section of nature of the offence	General Maximum
	Act creating the offence	
219(4)	Company failing to deliver copy of order to Registrar, or failing to annex copy of order to memorandum.	Fine: <i>[Grade C]</i>
221(3)	Company failing to deliver copy of order	Fine: <i>[Grade C]</i>

	made under section 221 to Registrar.	
223(4)	Company failing to deliver copy of order made under section 223 to Registrar.	Fine: <i>[Grade C]</i>
225(2)	Failure to give notice of resolution to wind up	Fine: <i>[Grade B]</i>
229(6)	Failure to deliver the declaration of solvency to the Registrar.	Fine: <i>[Grade B]</i>
234(4)	Failure to deliver a copy of account or return.	Fine: <i>[Grade B]</i>
261(4)	Company default in complying with section 247 (circulation of copy of statement)	Fine: <i>[Grade C]</i>
263(2)	Company failing to keep register, index, minute book or book of account, e.t.c.	Fine: <i>[Grade B]</i>
234(4)	Failure to deliver a copy of account or return.	Fine: <i>[Grade B]</i>
	SUMMARY CONVICTION	
34(6)	Failure to enter name and address in the register of members.	Fine: <i>[Grade C]</i>
41(4)	Failure of company to use a common seal	Fine: <i>[Grade C]</i>
	PASSED on the House of Representatives of Zanzibar on 17 th day of October, 2013.	
	(YAHYA KHAMIS HAMAD) <i>Clerk of the House of Representatives of Zanzibar</i>	