



**THE SPINSTERS AND SINGLE PARENT CHILDREN PROTECTION**  
**ACT, 2005**

**ARRANGEMENT OF SECTIONS**

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ACT NO. 4 OF 2005

I ASSENT

*Amani Abeid Karume*  
{AMANI ABEID KARUME}  
PRESIDENT OF ZANZIBAR

AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

*5<sup>TH</sup> MARCH,*....., 2005

**AN ACT TO REPEAL THE SPINSTERS, WIDOWS AND FEMALE DIVORCEE  
PROTECTION ACT, 1985 AND TO PROVIDE FOR THE PROTECTION OF  
SPINSTERS AND SINGLE PARENT CHILDREN AND OTHER MATTERS  
RELATED THERETO**

**ENACTED** by the House of the Representatives of Zanzibar.

Short title and  
commencement.

1. This Act may be cited as the Spinsters and Single Parent Children Protection Act; 2005 and shall come into operation on such a date as the Minister may, by notice in the Gazette appoint.



Interpretation.

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

"Alleged father" means a person who is alleged to be responsible for the pregnancy in question;

"D.N.A" means deoxyribo nucleic acid, a substance in chromosomes that stores genetic information;

"Education Center" means offender's centers established under the Offenders Education Act No. 1 of 1980;

"girl" means a female person whose age is not above eighteen years;

"illicit sexual intercourse" means sexual intercourse between persons who are not legally married;

"Investigation agency" means the Directorate of Criminal Investigation;

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



"Order" means the court order made under subsections (4) and (5) of section 3 of this Act;

"Prosecution agency" means the Directorate of Public Prosecutions;

"Public institution" means municipality and includes Town and District Council established under the Zanzibar Municipal Council Act. No.3 of 1995 and the District and Town Councils Act. No.4 of 1995 respectively;

"School" means as defined under the Education Act No. 6 of 1982;

"Single parent children" means children born out of the wedlock;

"unmarried woman" means any female person of whatever age, who had never been married and who is pregnant or who may have given birth to a child;

"Spinster" means an unmarried female person who is of the age of between eighteen and twenty one years and who has not given birth to a child;



"Student" means any person whether male or female of whatever age who is still in school pursuing his or her basic education as defined under the Education Act No. 6 of 1982.

Spinster found pregnant.

3.(1) A Spinster who is found to be pregnant at her own will shall be guilty of an offence.

(2) A Spinster shall not be said to have become pregnant of her own will if the pregnancy referred in subsection (1) of this section was due to an act of rape as defined under the Penal Act whether such rape was reported to the authorities or not or where such pregnancy was due to acts of undue influence or such acts which prevented the Spinster to have a free and informed consent to engage in illicit sexual intercourse which resulted into pregnancy.

(3) Any person who is found to be responsible for the pregnancy of a spinster shall be guilty of an offence and shall be liable to serve in Education Centre for not less than three years and not more than five years.

(4) Any person convicted under subsection (3) of this section shall in addition to the imprisonment, be ordered to provide maintenance to the child in accordance with the provisions of section 5 of this Act.



(5) Where a person who is convicted is a male student and is of the age not exceeding 18 years, he shall be ordered to serve in the community services for a period to be determined by the court.

(6) Any Spinster convicted for an offence under subsection (1) of this section shall be ordered to serve in the community services for a period of six month starting three months from the date of delivery.

Protection of right of education.

4.(1) Where a girl is found to be pregnant while still at school she may immediately be suspended from school.

(2) A girl suspended under subsection (1) of this section may be reinstated to the school in the next academic year following her delivery or at any time deemed most appropriate by the education authority but in any case suspension shall not exceed two academic years.

(3) Any spinster found to be pregnant while still at school she may immediately be suspended from school and may be reinstated to the school in the next academic year following completion of her sentence of community service or at any time deemed most appropriate by the education authority.



(4) The education authority may withhold permission to reinstate a spinster on account of her apparent unreformed behavior

(5) Any male student whose age is below eighteen years who is convicted under section 3 (5) of this Act shall in addition to such sentence be suspended from school but may be reinstated in the next academic year following completion of serving the sentence but the education authority may reinstate him at any time it deems appropriate but in any case should not be later than two academic years.

Institute suit for maintenance.

5.(1) Any Spinster, girl, female divorcee or unmarried woman who may be pregnant or may have delivered a child may:

- (a) before the birth of the child ;or
- (b) at any time before the child attains eighteen years or is able to support himself or herself, may institute a suit before a district court for maintenance , against the alleged father of the child or a person who caused the pregnancy;

(2) For the purpose of determining paternity under this Act, any person who assumes or accepts to be a father of a child or to be responsible for the pregnancy either expressly or by his conduct shall be stopped from denying and may be sued for maintenance under this



section without further proof of paternity except where such person prove to the satisfaction of the court that he is not such a father of the child.

(3) For the avoidance of doubt it is hereby expressly provided that nothing in this Act shall be construed to vest a child, a father of the child to the right of inheritance as between them or any of them and any issue relating to inheritance shall be determined according to the personal law applicable to the deceased.

(4) Notwithstanding any other law for the time being in force as to payment of court fees, the plaintiff in a suit under this section shall be exempted from paying court fees.

Duty of a spinster to disclose the name.

6.(1) It shall be the duty of every spinster found to be pregnant to disclose the name of a man who is alleged to be person who caused such pregnancy and if such spinster refuses to disclose the name of the man alleged to be a person who caused such pregnancy, shall be guilty of an offence and shall on conviction be ordered to serve for community services for a period of three months.

(2) It shall be a good defence where the Spinster proves that the pregnancy as a result of an act of gang rape, incest or other circumstances under which she could not identify the rapist.

(3) Where a spinster or unmarried woman purposely discloses a different person from the one who is alleged to be the person who caused such pregnancy and if it is proved to the satisfaction of the court that she





did it purposely, she shall be guilty of an offence and shall on conviction be ordered to serve for community services for a period of six months.

Costs of DNA or any other test.

7.(1) Where a DNA test is properly conducted shall be admitted as a conclusive evidence of biological relationship as between persons in dispute of such relationship under this Act and the burden of proving otherwise shall be on the person disputing such evidence.

(2) Where the alleged father is proved to be the father of the child born out of wedlock, and he initially without reasonable grounds denied to be responsible and caused the investigation agency or prosecution to conduct a DNA test or any other test for the purpose of determining the paternity of the child, he shall be liable to pay costs for such a test and on default to serve a term of not less than three months in an Education Centre.

Duty to maintain a child.

8.(1) It shall be the duty of every person proved or alleged to be the father of the child to maintain his child and to provide him/her with necessaries of life including but not limited to clothing and food, health, education and reasonable shelter depending on the means of the alleged father.

(2) For the purpose of this section, "education" means basic education in accordance with the Education Act, 1982 and where the means of alleged father allow shall extend to a higher education.

Powers of court to order maintenance.

9. The court shall order an alleged father to pay maintenance to his child:



- (a) if he has refused or neglected to provide for him/her as required under section 8 of this Act;
- (b) where the parties were married the period after the date on which divorce takes or is deemed to have taken effect provided that the child after that date has not complete his 18<sup>th</sup> birthday or has not been able to maintain him/ herself;
- (c) upon convicting a person under section 3(3) of this Act.

Power of court to order security for maintenance

10.(1) The Court may in its discretion when awarding maintenance order to the person liable to pay such maintenance to secure the whole or any part of it by vesting any property in trustees upon trust to pay such maintenance or part thereof out of the income from such property.

(2) The Court may, in execution of order of maintenance, order the attachment and sale of the property of judgment debtor found liable to provide maintenance.

Compounding of maintenance.

11. An agreement for the payment, in money or other property, of a capital sum in settlement of all future claims to maintenance shall not be effective until it has been approved or approved subject to conditions, by the court, but when so approved shall be a good defence to any claim of maintenance.



Duration of orders of maintenance.

- 12.(1) Every order for maintenance shall expire:
- (a) on the death of the alleged father; or
  - (b) on the death of the child in whose favour it was made; or
  - (c) on the attainment of the child of 18 years of age;
  - (d) upon the child becoming able to support himself or herself before the attainment of 18 years of age; or
  - (e) in case of a female child, when she gets married.

(2) The maintenance order shall continue in force notwithstanding that the child has attained 18 years of age where the physical or mental conditions of the child prevent him from supporting himself or herself or the child is still at school.

Maintenance may cease.

13.(1) The right of any child to receive maintenance under an order of the court may cease when his or her mother is married by the alleged father.

(2) The right shall revive again when the couple divorce each other and when the child has not started maintaining himself or herself.

Power of court to vary orders for maintenance.

14. The court may at any time; and from time to time, rescind any subsisting order for maintenance, whether secured or unsecured, on the application of a



person in whose favour or of the person against whom the order was made, or in respect of secured maintenance, of the legal personal representatives of the father, whether it is satisfied that the order was based on any misrepresentation or mistake of fact or where there has been any material change in the circumstances.

Regulations.

15. The Minister may make regulations for the better carrying out the provisions of this Act.

Repeal and savings.

16.(1) The Spinsters, Widows and Female Divorcee Protection Act no. 4 of 1985 and section 20(4) of the Education Act, 1982 are hereby repealed.

(2) Any thing done under the provisions of the repealed Act or provision shall be deemed to have been done legally and shall not be subject to any further proceedings.

(3) Any case pending before the commencement of this Act shall continue under the repealed Act.

**PASSED by the House of Representatives on the 25<sup>th</sup> day of January, 2005.**

**KHAMIS JUMA CHANDE**

**CLERK OF THE HOUSE OF REPRESENTATIVES**