

AN ACT TO CONTROL THE SMUGGLING OF CERTAIN
ESSENTIAL COMMODITIES AND OTHER RESTRICTED
GOODS AND FOR MATTERS RELATING THERETO AND
CONNECTED THEREWITH

ARRANGEMENT OF SECTIONS

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ACT NO. 5 OF 1986

I ASSENT,

IDRIS ABDUL WAKIL

IDRIS ABDUL WAKIL
PRESIDENT OF ZANZIBAR
AND

CHAIRMAN OF THE REVOLUTIONARY
COUNCIL.

..... 21st May 1986.

AN ACT TO CONTROL THE SMUGGLING OF CERTAIN
ESSENTIAL COMMODITIES AND OTHER RESTRICTED
GOODS AND FOR MATTERS CONNECTED THEREWITH
AND INCIDENTAL THERETO.

ENACTED by the House of Representatives.

Short title
and
commencement.

1. This Act may be cited as the Control of
Smuggling of Essential Commodities and Restricted
Goods Act, 1986, and shall come into force immediately
upon being assented by the President.

Interpretation.

2. In this Act, except where the context
otherwise requires -

"Bizanje" means the Trading Corporation concerned
with the importation of goods from outside
Zanzibar;

"cargo" includes all goods or exported in any
aircraft, vehicle or vessel other than such
goods as are required as stores for
consumption or use by or for the aircraft,
vehicle or vessel, its crew and passengers,
and the bona fide personal baggage of such
crew and passengers;

"export" with its grammatical variations and
cognate expressions means to take or cause
to be taken out of Zanzibar;

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"essential commodities" includes rice, wheat flour, sugar, maize, maize flour, beans and any other type of food whether in form of cereals or not which may be declared to be essential commodity;

"foreign vessel" does not include vessels registered in Tanzania mainland; and foreign aircraft shall be construed accordingly;

"goods" includes all kinds of articles, wares, merchandise and livestock, and, where any such goods are sold under this Act, the proceeds of such sale;

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

"officer" means an officer working with any special departments and includes police officer, customs officer or any other person authorised by this Act;

"restricted goods" means any goods exportation, transfer, or carriage coastwise, of which is prohibited, save in accordance with any conditions regulating such exportation, transfer, or carriage coastwise, and any goods the exportation, transfer, or carriage coastwise, of which is in any way declared to be restricted goods under the provisions of this Act;

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

"Special Departments" means Special Departments as defined in the Constitution of Zanzibar, 1964;.

"transfer" with its grammatical variations and cognate expressions means the movement of goods from Zanzibar directly or indirectly to any country outside Zanzibar, but shall not include goods in transit, goods for transhipment or goods for warehousing in bonded warehouses;

"transhipment" with its grammatical variations and cognate expressions means the transfer, either directly or indirectly, of any goods from an aircraft, vehicle or vessel, arriving in Zanzibar from a foreign place, to an aircraft, vehicle or vessel, departing to a foreign destination;

"transit" with its grammatical variations and cognate expressions means the movement of goods imported from a foreign place through Zanzibar to a foreign destination;

"vehicle" includes every description of conveyance for the transport by land of human beings or goods;

"vessel" includes any ship or boat or any other description of vessel used in navigation;

"voyage" means all types of voyages whether by land or sea and includes air transportation.

Declaration of
essential
commodities
and
restricted
goods.
3.(1) The Minister may by notice in the Gazette from time to time declare certain commodities to be essential commodities.

(2) The Minister may by notice in the Gazette from time to time declare certain goods to be restricted goods.

Prohibition of
exportation or
carriage
coastwise of
essential
commodities
and
restricted
goods.

Power to
patrol freely
and moor
vessels, etc.

Power to board
vessel, etc.
and search.

4.(1) The exportation transfer or carriage coastwise of essential commodities and restricted goods in whatever form, whether raw or otherwise is hereby prohibited.

(2) Any person who contravenes the provision of this section shall be guilty of an offence.

5.(1) Any officer while on duty may enter upon and patrol and pass freely along any premises other than a dwelling-house or any building.

(2) Any officer in charge of any aircraft, vessel or vehicle, employed in the prevention of smuggling, may take such aircraft, vessel or vehicle, as may be considered most convenient for that purpose, and may keep there such aircraft, vessel or vehicle, for such time as he may consider necessary for that purpose.

(3) No officer shall be liable to any legal proceedings for any action taken in good faith in accordance with this section.

6.(1) Any officer may, in the course of his duty, board and search any aircraft or vessel and may examine, lock-up, seal, mark, or otherwise secure, any goods on such aircraft or vessel; and for the purposes of the examination or security of any goods, such officer may require such goods to be unloaded, or removed at the expense of the master of such aircraft or vessel.

(2) Any officer acting under this section who is unable to obtain free access to any part of such aircraft or vessel, or to any container therein, may enter such part, or open such container, in such manner, if necessary by force, as he may think necessary.

(3) Any officer boarding any vessel under this section may remain thereon for such time as he may

consider necessary and master of such vessel shall either provide such officer with proper and sufficient food and suitable bedding accommodation as provided to other male officers or, with the approval of the proper officer and subject to such conditions as he may impose, pay such sum as may be prescribed in lieu thereof and any master who contravenes this subsection, or of any such condition, shall be guilty of an offence and be liable to a fine not exceeding two thousand shillings.

(4) Any master of an aircraft or vessel -

- (a) who refuses to unload or remove any goods when required to do so in accordance with the provisions of this section; or
- (b) in which any goods which have been locked up, sealed, marked, or otherwise secured in accordance with this section are in any way interfered with except in accordance with the permission of the proper officer; or
- (c) in which any lock, seal, or mark, placed on any place or goods in accordance with this section is in any way opened, broken, or altered,

shall be guilty of an offence.

(5) Where, on the search of any aircraft or vessel under this section, any goods are found in relation to which any offence under this Act has been committed, then such goods shall be liable to forfeiture.

(6) No officer shall be liable to any legal proceedings for any action taken in good faith in accordance with this section.

(7) Where, on any aircraft or vessel being boarded under this section, any goods are found therein and on such aircraft or vessel being subsequently boarded, whether by the same or another officer, such goods or any part thereof are no longer therein, then unless the master of such goods ^{proves} to the satisfaction of the proper officer that such goods were not there then such master shall be guilty of an offence.

Power to stop
vehicle
suspected
of
conveying
essential
commodities
and or
restricted
goods.

7.(1) Any officer may, if he has reasonable grounds to believe that any vehicle is conveying any essential commodities and or restricted goods stop and search any such vehicle; and for the purposes of such search, such officer may require any goods in such vehicle to be unloaded at the expense of the owner of such vehicle.

(2) Any officer who is unable to obtain free access to any place or container in the course of any such search of any vehicle under this section may open such place or container in such manner, if necessary by force, as he may think fit.

(3) Any person in charge of a vehicle who refuses to stop or to permit such vehicle to be searched in accordance with this section, shall be guilty of an offence.

(4) Where, on the search of any vehicle under this section, any goods are found in relation to which any offence under this Act has been committed, then such goods shall be liable to forfeiture.

(5) No officer shall be liable to any legal proceedings for any action taken in good faith in accordance with this section.

Power of
arrest.

8.(1) Any officer may, if he has reasonable grounds to believe that any person is committing, or has committed or been concerned in the commission of, any offence under this Act, without warrant, arrest such person, and such officer may, for such purpose, use all reasonable force.

(2) Any person arrested in accordance with this section shall forthwith be taken before a magistrate, or to a police station, to be dealt with according to law.

(3) No officer shall be liable to any legal proceeding for any action taken in good faith in accordance with this section.

Destruction
of goods or
throwing
overboard.

9. Any person who -

- (a) staves, breaks, destroys or throws overboard from any aircraft, vessel or vehicle any goods for the purpose of preventing the securing of such goods after they have been seized; or
- (b) rescues, staves, breaks, destroys, or throws overboard from any aircraft, vessel or vehicle any goods for the purpose of preventing the securing of such goods after they have been seized; or
- (c) rescues any person arrested for any offence under this Act; or
- (d) in any way obstructs any officer in the execution of his duty,
shall be guilty of an offence.

Offences
related to
essential
commodities
and
restricted
goods.

10. Any person who -

- (a) exports, carries coastwise, or puts on board any aircraft, vehicle or vessel, or brings to any customs airport, customs area, or place, to be so put on board, for exportation or for use as stores or for carriage coastwise -
 - (i) any essential commodities; or
 - (ii) any restricted goods contrary to any condition regulating the exportation, use as stores, or carriage coastwise, of such goods;
 - (b) acquires, has in his possession, keeps or conceals, or procures to be kept or concealed, any goods which he knows, or ought reasonably to have known, to be -
 - (i) essential commodities; or
 - (ii) restricted goods which have been carried coastwise contrary to any condition regulating such carriage coastwise,
- shall be guilty of an offence.

Offence to
export
concealed
goods.

11. Any person who exports any goods -
(a) which are concealed in any way; or
(b) which are packed in any package (whether or not together with other goods) in a manner likely to deceive any officer; or
(c) which are contained in any package of which the entry or application for shipment does not correspond with such goods, shall be guilty of an offence.

Aiders and
abettors.

12. Any person who aids, abets, conceals or procures the commission of an offence under this Act shall be deemed to have committed such offence and shall be guilty of an offence.

Place of
trial.

13. Any person charged with an offence under this Act may be proceeded against, tried, and punished, in any place in which he may be in custody for that offence as if the offence had been committed in such place; and the offence shall for all purposes incidental to, or consequential upon, the prosecution, trial, or punishment, thereof be deemed to have been committed in that place:

Provided that nothing herein contained shall preclude the prosecution, trial, and punishment, of such person in any place in which, but for the provisions of this section, such person might have been prosecuted, tried and punished.

Master to
answer
questions,
etc.

- 14.(1) The master or agent of every aircraft or vessel -

- (a) shall answer fully and immediately all such questions relating to the aircraft or vessel, its cargo stores, baggage, crew, and passengers, as may be put to him by the proper officer;

- (b) shall produce all such books and documents in his custody or control relating to the aircraft or vessel, its cargo, stores, baggage, crew, and passengers, as the proper officer may require;
- (c) shall, before any person (unless permitted to do so by the proper officer) disembarks, delivers to the officer who board such aircraft or vessel on arrival at any port or place, a correct list in the prescribed form containing separately the names of the passengers disembarking and of those remaining on board such aircraft or vessel, and also, if required by such officer the names of the master and of each officer and member of the crew;
- (d) shall, if required, deliver to the proper officer at the time of making report the clearance, if any, of such aircraft or vessel from the port from which such aircraft or vessel has arrived.

(2) Any master or agent who contravenes this section shall be guilty of an offence.

Penalty for
offences
under this
Act.

15.(1) Any person who is guilty of an offence under this Act shall be liable to all of the following penalties.

- (a) an imprisonment exceeding five years but not exceeding ten years;
- (b) payment of five equal to the value of the essential commodities and or restricted goods which he had intended to export, transfer or carry coastwise;
- (c) any vehicle, vessel, aircraft or any other thing used for the transportation or which was to be used for the transportation or which was to be used for the transportation of such essential commodities or restricted goods shall be forfeited to the Government irrespective of whether such vehicle, vessels aircraft or other things belong

to the accused or not:

Provided that if such vessel or aircraft is a foreign vessel or aircraft shall be attached until payment in foreign currency to the equivalent of Tanzanian shillings two hundred thousand is made.

(2) Where the vehicle, vessel, aircraft or any other thing used for the transportation or which was to be used for the transportation of such essential commodities or restricted goods belonging to the Government or its parastatal, then the driver or any person entrusted with such vehicle, vessel, aircraft or such other thing as the case may be and or the person who authorised such driver or the other person shall be liable to payment of fine exceeding one hundred shillings.

Burden of proof.

16. The burden of proof to any person alleged to have committed an offence under this Act shall rest upon the accused.

Regulations.

17. Without prejudice to the generality of the foregoing, the Minister may, in addition to the following, make regulations for the better carrying on of the provisions of this Act -

- (a) make regulations for the amount and quantity of the essential commodities and or restricted articles which may be carried by any person on board any ship aircraft or vessel;
- (b) make regulations for the probable incentives which may be given to any officer or person who leads to the successful execution of any person alleged to have committed an offence under this Act; and
- (c) make regulations for the disposal of articles and or commodities which have been confiscated under this Act.

Repeal of
certain
sections in
certain laws,
inapplicability
of Cap. 27 of
E. A. Customs
and savings.

18.(1) The following sections of
the laws mentioned are hereby repealed:-

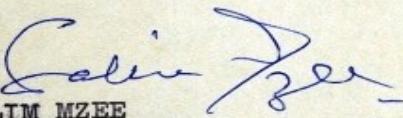
(a) section 6 of Act No. 5 of 1981
(The Zanzibar Trading Act);

(b) section 292 of the Criminal
Procedure Decree, Cap. 14 of
the Laws of Zanzibar.

(2) The provisions of Chapter 27
of the East African Customs and Transfer
Management Act shall not apply to any of
the offences under this Act.

(3) Anything done under the repealed
Decrees or Acts shall be presumed to have
been done under the corresponding provisions
of this Act and shall be dealt with in
accordance with this Act.

Passed in the House of Representatives
on the 2nd day of April, 1986.


SALIM MZEE
ACTING CLERK TO THE HOUSE
OF REPRESENTATIVES.

SHERIA YA KUZUIA MAGENDO YA BAADHI

YA MAHITAJI YA LAZIMA NA BIDHAA

ZISIZO RUHUSIWA PAMOJA NA MAMBO

MENCINE YANAYOHUSIANA NA HAYO

KIFUNGU

1. Jina na tarehe ya kuanza kutumika.
2. Ufafamuzi.
3. Tangazo la mahitaji ya lazima na bidhaa zinazokatazwa.
4. Kukatazwa usafirishaji au uchukuzi wa mahitaji muhimu na bidhaa zinazokatazwa.
5. Uwezo wa kuzunguka doria bila pingamizi.
6. Uwezo wa kuingia ndani ya chombo na (kusachi) kufanya taftishi.
7. Uwezo wa kusimamisha chombo kinachoshukiwa kuwa kimechukuwa mahitaji ya lazima au bidhaa zinazokatazwa.
8. Uwezo wa kulkamata.
9. Kuharibu au kupata bidhaa zilizokamatwa ndani ya chombo.
10. Makosa yahusuyo mahitaji ya lazima na bidhaa zilizokatazwa.
11. Kosa la kusafirisha na kuficha bidhaa.
12. Wasaidizi au washiriki.
13. Pahala pa kutolewa hukumu.
14. Rubani na Nahodha kujibu masuali (hoja).
15. Adabu kwa makosa chini ya Sheria hii.
16. Ulazima wa kuhakikisha kesi.
17. Kamuni.
18. Kufutwa kwa baadhi ya vifungu katika baadhi ya sheria, kutotumika kwa Cap. 27 ya Sheria ya E.A. Customs na kuhalalisha makosa yaliyopita.

SHERIA NAMBA 5 YA 1986

NAKUBALI

Idris Abdul Salih

IDRIS ABDUL WAKIL
RAIS WA ZANZIBAR
NA MWENYEKITI WA
BARAZA LA MAPINDUZI

30th MAY, 1986

SHERIA YA KUZUIA MAGENDO YA BAADHI

YA MAHITAJI YA LAZIMA NA BIDHAA
ZISIZO RUHUSIWA PAMOJA NA MAMBO
MENGINE YANAYOHUSIANA NA HAYO

IMETUNGWA na Baraza la Wawakilisho la Zanzibar.

Jina na tarehe
ya kuanza
kutumika.

1. Sheria hii itajulikana kama Sheria ya Kuzuia Magendo ya Mahitaji ya Lazima na Bidhaa zisizoruhusiwa ya 1986, na itaanza kutumika mara moja baada ya kupata kibali cha Rais.

Ufafamuzi.

2. Katika Sheria hii, ila maelezo yatahitaji vyenginevyo:

"shehena" inajumuisha bidhaa zote zinazosafirishwa kwa ndege, vyombo vya baharini, isipokuwa bidhaa ambazo zinatarajiwu kuhifadhiwa kwa ajili ya matumizi ya wafanyakazi, abiria pamoja na mizigo binafsi ya wafanyakazi na abiria ndani ya ndege, vyombo vya nchi kavu au vyombo vya baharini;

"kusafirisha" pamoja na mabadiliko yake ya kiserufi na maelezo yenye asili moja ina maana ya kuchukua au kusababisha kuchukuliwa nje ya Zanzibar;

"bidhaa" inajumuisha aina zote za bidhaa, vitu vya biashara, mali, mifugo na pale ambapo bidhaa zo zote zitauzwa chini ya Sheria, mapato kutohana na mauzo hayo;

"bidhaa zinazokatazwa" ina maana ya bidhaa ambazo usafirishwaji, uhaulishaji au uchukuzi wa bidhaa ambazo zimekatazwa, isipokuwa kufuatana na masharti yanayonadhimu usafirishwaji, uhaulishwaji au chukuzi wa bidhaa ambazo zimetangazwa kuwa bidhaa zisizoruhusiwa chini ya vifungu vya Sheria hii;

"magendo" pamoja na mabadiliko yake ya kiserufi na maelezo yenye asili moja ina maana ya usafirishaji, uchukuzi kwa njia ya bahari, au uhaulishaji au uondoaji wa bidhaa kwa nia ya kuondoa mahitaji muhimu pamoja na bidhaa zilizokatazwa na kuzitorosha nje ya Zanzibar;

"kuhaulisha" pamoja na mabadiliko yake ya kiserufi na maelezo yenye asili moja ina maana ya uondo-shwaji wa bidhaa kutoka Zanzibar moja kwa moja au vyenginevyo na kupelekwa nchi nyengine, lakini hii haitojumuisha bidhaa zinazopitishwa (on transit goods), bidhaa kwa ajili ya kusafirishwa tena (transhipment) au bidhaa zinazopelekwa ghalani;

"kusafirisha tena" (transhipment) pamoja na mabadiliko yake ya kiserufi na maelezo yenye asili moja ina maana ya kuhaulisha ama moja kwa moja au vyenginevyo kwa bidhaa zo zote kutoka kwenye ndege, vyombo vya nchi kavu au vyombo vya baharini vinavyowasili Zanzibar kutoka nje ya Zanzibar kwa kupakiwa tena na katika ndege, chombo cha nchi kavu au chombo cha baharini kwa kuelekea nchi za ng'ambo;

"pitisha" (transit) pamoja na mabadiliko yake ya kiserufi na maelezo yenye asili moja ina maana ya usafirishwaji wa bidhaa zilizoagizwa kutoka Nchi za ng'ambo kwenda nchi ya kigeni kupitia Zanzibar;

"chombo" cha nchi kavu inajumuisha kila aina ya kipando kwa ajili ya usafiri wa nchi kavu wa binaadamu au bidhaa;

"Chombo cha Bahari" ina maana ya Meli au Mashua au chombo chengine cho chote cha usafiri wa baharini;

"chombo cha kigeni" hakijumuishi chombo kilichoandikishwa Tanzania Bara;

"safari" ina maana ya safari zote pamoja na usafiri wa ndege;

"Bizanje" ina maana ya Kampuni ya Biashara inayoshugulika na uagiziaji wa bidhaa kutoka nje ya Zanzibar;

"Waziri" ina maana ya Waziri anayeshughulikia
biashara;

"mahitaji ya lazima" yanajumuisha mchele, unga
wa ngano, sukari, mahindi, unga wa mahindi,
(maharage) kunde na jamii yake, na aina yo
yote ya chakula ima katika hali ya nafaka au
hali nyengineyo ambayo itatangazwa kuwa ni
mahitaji ya lazima;

"afisa" maana yake ni afisa anayefanyakazi katika
Idara Malumu yo yote; na inajumuisha afisa wa
Polisi, wa forodha au mtu mwengine ye yote
alieruhusawa;

Idara Maalumu" ina maana ya Idara Maalumu kama
ilivyoelezwa katika Katiba ya Zanzibar, 1984.

Tangazo la
mahitaji ya
lazima na
bidhaa zina-
zokatazwa.

3. (1) Waziri atatangaza mara kwa mara katika
Gazeti Rasmi la Serikali na kutamka kwamba baadhi ya mahitaji
kuwa ni mahitaji ya lazima.

(2) Waziri atatangaza mara kwa mara katika Gazeti
Rasmi la Serikali na kutamka kwamba baadhi ya bidhaa kuwa ni
bidhaa zinazokatazwa.

Kukatazwa
usafirishaji
au uchukuzi
wa mahitaji
muhimu na
bidhaa zina-
zokatazwa.

4. (1) Usafirishaji, uhaulishaji au uchukuzi wa
mahitaji muhimu au bidhaa zinazokatazwa katika hali yo yote
ile, viwe vibivu au la unakatazwa.

(2) Mtu ye yote atayekiuka masharti ya kifungu
hiki atakuwa mkosa.

Uwezo wa
kuzunguka
doria bila
pingamizi.

5. (1) Afisa ye yote akiwa kazini ataweza kuingia
na kufanya doria na kuingia bila pingamizi katika jengo
lo lote ambalo si la makaazi au nyumba ya kuishi.

(2) Afisa ye yote ambaye ni dhamana wa ndege, chombo
cha nchi kavu au baharini ambaye amejiriwa katika kuzuia
magendo, anaweza kuiamrisha ndege hiyo, chombo hicho eha
baharini au nchi kavu na kukipeleka katika sehemu ambayo
atahisi ni munasibu kwa madhumuni hayo na ataweza kuweka
ndege hiyo au chombo hicho cha bahari au nchi kavu kwa muda
ambao atahisi ni munasibu kwa madhumuni hayo.

(3) Afisa ye yote hatoshtakiwa au kufunguliwa mashtaka dhidi yake kwa kitendo cho chote ambacho amekitenda kwa nia njema kufuatana na kifungu hiki.

Uwezo wa
kuingia ndani
ya chombo na
(kusachi)
kufanya
taftishi.

6. (1) Afisa ye yote akiwa kazini anaweza kuingia na kufanya taftishi katika ndege yo yote, chombo cho chote cha baharini au cha nchi kavu na kuchunguza, kukomelea, kufunga, kuweka alama au vyenginevyo kuhifadhi bidhaa zo zote katika ndege hiyo au chombo hicho cha baharini au nchi kavu kwa madhumuni ya kuchunguza au usalama wa bidhaa zo zote, Afisa huyo anaweza akaamuru kwamba bidhaa zipakuliwe au ziondoke kwa gharama za rubani au nahodha wa ndege hivyo au chombo hicho.

(2) Afisa ye yote anayetekeleza amri ya kifungu hiki ambaye hatopata fursa ya kuingia kwenye ndege au chombo che chote au kuingia katika sehemu ya ndege au chombo hicho bila ya kizuizi anaweza kutumia nguvu na kuingia pindipo atahisi ni lazima kufanya hivyo.

(3) Afisa ye yote atayeingia katika chombo chini ya kifungu hiki anaweza kubakia humu kwa muda ambaa ataona ni lazima na Rubani au Nahodha wa chombo hicho atampatia Afisa huyo chakula kinachofaa cha kutosha na malazi munasibu katika sehemu wanayolala wafanyakazi wengine au kwa kuthibitishwa na Afisa anayehusika na kwa kufuatana na masharti ambayo atayaweka, anaweza kulipa pesa badili yake na Rubani au Nahodha ataye kwenda kinyume na kifungu hiki au masharti yo yote yale atakuwa mkosa, kosa likithibiti atalipa faini isiyozidi shilingi elfu mbili.

(4) Rubani wa ndege au Nahodha wa chombo -

(a) atayekataa kupakuwa au kuondoa bidhaa atapotakiwa kufanya hivyo kufuatana na masharti ya kifungu hiki; au

(b) katika chombo hicho bidhaa zimekomelewa, zimefungiwa, zimewekwa alama au zimehifadhiwakufuatana na kifungu hiki kwa njia yo yote ile ameingilia isipokuwa kwa ruhusa ya Afisa anaehusika; au

(c) katika chombo hicho, komeo, kufuli au alama ambayo imewekwa pahala po pote pale au kwenye bidhaa kufuatana na kifungu hiki kwa hali yo yoteile limefunguliwa, limevunjwa au limebadilishwa, atakuwa mkosa.

(5) Pale ambapo taftishi inafanyika katika ndege au chombo, chini ya kifungu hiki bidhaa zo zote zitazoonekana kuhusiana na kosa chini ya Sheria hii, basi bidhaa hizo zitawajibika kuchukuliwa (kutaifishwa).

(6) Hakuna Afisa atayefunguliwa mashtaka kwa kitendo cho chote kilichofanywa kwa nia njema kufuatana na kifungu hiki.

(7) Pale ambapo ndege au chombo kimeingiliwa chini ya kifungu hiki, bidhaa zo zote ambazo zimeonekana ndani ya ndege hiyo au chombo hicho kilichoingiliwa, ima na Afisa huyo huyo au na Afisa mwengine bidhaa hizo au sehemu ya bidhaa hizo hazimo tena, isipokuwa rubani au nahodha ndege au chombo atapota maelezo ya kumtosheleza Afisa anaehusika, rubani au nahodha atakuwa mkosa.

Uwezo wa kusimamisha chombo kinacho-shukiwa kuwa kimechukuluwa mahitaji ya lazima au bidhaa zinazokatazwa.

7. (1) Afisa ye yote anaweza iwapo ana sababu za msingi na kuamini kwamba chombo kinasafirisha mahitaji muhimu na au bidhaa zilizokatazwa kukisimamisha na kukitaftishi chombo hicho, kwa madhumuni ya kufanya taftishi, Afisa huyo anaweza akaamuru bidhaa zote katika chombo hicho ziteremshwe (zipakuliwe) na gharama za upakuzi zitagharimiwa na mwenye chombo hicho.

(2) Afisa ye yote ambaye hatopewa fursa (ruhusa) ya kuingia na kufanya taftishi katika sehemu yo yote au sanduku lo lote chini ya kifungu hiki anaweza kufungua sehemu hiyo au sanduku hilo kwa hali yo yote ile ikiwa ni lazima kutumia nguvu.

(3) Mtu ye yote ambaye ni dhamana wa chombo ambae atakataa kusimama au kuruhusu chombo hicho kufanyiwa taftishi kufuatana na kifungu hiki atakuwa mkosa.

(4) Pale ambapo taftishi inafanywa katika chombo chini ya kifungu hiki, bidhaa zo zote zitazokutwa kuhusiana na kutendeka kwa kosa chini ya kifungu hiki, basi bidhaa hizo zitawajibika kutekwa (kuchukuliwa).

(5) Hakuna Afisa ye yote atayefunguliwa mashtaka kwa kitendo cho chote kilichotendwa kwa nia njema kufuatana na kifungu hiki.

Uwezo wa
kukamata.

8. (1) Afisa ye yote anaweza ikiwa ana sababu za msingi na kuamini kwamba mtu ye yote anatenda au ametenda au amehusika na kutenda kosa lo lote lile chini ya Sheria hii, kumkamata mtu huyo bila ya hati ya kukamatia na Afisa hiyo anaweza kwa madhumuni hayo kutumia nguvu munasibu.

(2) Mtu ye yote aliyekamatwa kufuatana na kifungu hiki atapelekwa mbele ya Hakimu au Kituo cha Polisi na kushughulikiwa kisheria.

(3) Hakuna Afisa ye yote atayefunguliwa mashtaka kwa kitendo cho chote kilichotendwa kwa nia njema kwa mujibu wa kifungu hiki.

Kuharibu au
kupata bidhaa
zilizokamatwa
ndani ya chombo.

9. Mtu ye yote ambaye ata -

- (a) vunja, haribu, rusha nje ya ndege, chombo cha bahari au cha nchi kavu kujikinga na kukamatwa, au
- (b) okoa, vunja, haribu, au rusha nje ya ndege, chombo cha baharini au nchi kavu bidhaa zo zote kwa madhumuni ya kujihami na kukamatwa na bidhaa baada ya kukamatwa na bidhaa hizo; au
- (c) okoa, mtu ye yote aliyekamatwa kwa kosa chini ya Sheria hii; au
- (d) mzuiia Afisa kwa hali yo yote ile asitekeleze kazi yake,
atakuwa mkosa.

Makosa yahusuyo
mahitaji ya
lazima na bidhaa
zilizokatazwa.

10. Mtu ye yote ambaye -
- (a) anasafirisha, anachukuwa au anapakia katika ndege, chombo cha nchi kavu au cha baharini au katika Uwanja wa Ndege, eneo la forodha au kuwekwa kwa kupakia kwa ajili ya kusafirishwa kwa njia ya bahari -
 - (i) mahitaji ya lazima yo yote; au
 - (ii) bidhaa zo zote zilizokatazwa kinyume na masharti yanayonadhimu usafirishaji, matumizi ya ghalaa au usafirishwaji wa baharini wa bidhaa hizo;
 - (b) atayepata, atayekuwa katika milki yake, ataeweka au kuficha au ataesababisha kuweka na kuficha bidhaa zo zote ambazo anajua au atakuwa na sababu ya kujua, kwamba ni -
 - (i) mahitaji ya lazima au
 - (ii) bidhaa zinazokatazwa ambazo zinavushwa kinyume na masharti yanayonadhimu usafirishaji na uvushaji huo atakuwa mkosa.

Kosa la
kusafirisha na
kuficha bidhaa.

11. Mtu ye yote atayesafirisha bidhaa zo zote -
- (a) ambazo zitafichwa kwa njia yo yote; au
 - (b) ambazo zimefungwa katika furushi lo lote ikiwa pamoja na bidhaa nyengine au vyenginevyo katika hali ambayo inaweza ikamhadaa Afisa ye yote; au
 - (c) ambazo zimo katika furushi lo lote ambalo uingizwaji au ombi la kusafirishwa halilingani na bidhaa hizo,
- atakuwa mkosa.

Wasaidizi au
washirika.

12. Mtu ye yote ambaye atasaidia atashiriki, atashauri au atasababisha kutendwa kwa kosa chini ya Sheria hii atajaaliwa kama kwamba amefanya kosa hilo na atakuwa mkosa.

Pahala pa
kutolewa
hukumu.

13. Mtu ye yote ambaye ameshtakiwa chini ya Sheria hii atafunguliwa mashtaka dhidi yake kuhukumiwa na kupewa adabu katika sehemu yo yote ambayo atatiwa mahabusu kwa kosa hilo kama kwamba kosa limetendeka katika sehemu hiyo, kosa litakuwa kwa madhumuni na mambo yote yanayohusiana na uendeshaji wa mashtaka, hukumu au adhabu, itajaaliwa kwamba limetendeka pahala pale.

Isipokuwa cho chote kile hakitozia uendeshaji wa mashtaka, hukumu na adhabu ya dhidi ya mtu huyo katika sehemu nyengine chini ya kifungu hiki mtu huyo angepaswa kufunguliwa mashtaka, kuhukumiwa na kutiwa adabu.

Rubani au
Nahodha
kujibu masuali
(hoja).

14. (1) Rubani, Nahodha au Wakala kila ndege au chombo -

- (a) atajibu masuala kwa ukamilifu na mara moja kuhusiana na ndege au chombo, shehena yake, ghalia, mizigo, mfanyakazi na abiria ambayo ataulizwa na Afisa anaehusika;
 - (b) atatoa vitabu na hati ambazo zimo katika kabidhi yake ambazo zinahusiana na ndege au chombo, shehena yake, ghalia, mizigo, mfanyakazi na abiria ambazo zitahitajiwa na Afisa anaehusika;
 - (c) kabla ya mtu ye yote kuteremka ila ataporuhusiwa na Afisa anaehusika, atapeleka kwa Afisa ambae ameingia katika ndege hiyo au chombo hicho itapowasili katika bandari au pahala, orodha ya sahihi katika fomu itayotolewa itayokuwa na majina ya abiria wanaoteremka pake yao na abiria wanaobakia ndani ya ndege hiyo au chombo hicho, na pia, ikiwa itahitajika na Afisa huyo, majina ya nahodha au rubani na maafisa na mabaharia;
 - (d) iwapo itahitajika, atatoa kwa Afisa anaehusika wakati wa kutoa ripoti ya ruhusa, ya ndege hiyo au chombo hicho katika bandari au sehemu ambayo ndege au chombo hicho kimewasili.
- (2) Nahodha au rubani au wakala ataekiuka kifungu hiki atakuwa mkosa.

Adabu kwa
mkosa chini
ya Sheria hii.

15. (1) Mtu ye yote ambaye ni mkosa chini ya Sheria hii atawajibika kupata adhabu zote zifuatazo -
- (a) kifungo kisichopungua miaka mitano na kisichozi miaka kumi;
 - (b) kulipa faini ambayo ni sawa na thamani ya mahitaji muhimu na au bidhaa zinazokatazwa ambazo zimekusudiwa kusafirishwa, kuhamishwa au kusafirishwa baharini;
 - (c) chombo cho chote cha baharini, nchi kavu, ndege au kitu cho chote kitachotumika kwa ajili ya usafirishaji wa mahitaji muhimu au bidhaa zinazokatazwa kutachukuliwa na Serikali bila kujali chombo hicho au ndege hiyo au kitu hicho ni mali ya mshatakiwa au la.

Ila ijuilikane ikiwa ni meli au ndege za kigeni, basi zitazuiliwa tu hadi hapo zitapolipa idadi ya shilingi laki mbili kwa fedha za kigeni.

(2) Pale ambapo, chombo cha baharini au chombo cha nchi kavu au chombo cho chote ambacho kilichotumika au ambacho kitachotumika katika usafirishaji wa hizo bidhaa muhimu au mahitaji ya lazima ni mali ya Serikali au mashirika yake, basi dereva au mtu ye yote ambaye ni dhamana wa chombo hicho cha nchi kavu, chombo cha baharini ndege au chombo cho chote na au mtu atayemruhusu dereva huyo au mtu ye yote atalazimika kulipa faini ya shilingi mia moja elfu.

Uiazima wa kuhakikisha kesi. 16. Mtu ye yote anaeshtakiwa katika kifungu cho chote cha Sheria hii, basi jukumu la kuhakikisha (burden of proof) ya kuwa hakufanya kosa hilo liko mikononi mwake.

Kamuni.

17. Bila ya kuathiri mambo yaliyoainishwa hapa chini, Waziri anaweza, zaidi na mambo yaliyotajwa hapa chini, kuweka kamuni kwa ajili ya utekelezaji bora wa masharti ya Sheria hii -

- (a) kuweka kiwango cha mahitaji ya lazima au bidhaa zinazokatazwa ambacho msafiri anaweza kuchukuwa;
- (b) kuweka masharti ya vivutio kwa Raia na walinzi wanaokamata kesi yo yote chini ya Sheria hii; na

(10)

(c) kuweka utaratibu wa uwekaji wa mali
iliyokamatwa na kutaifishwa chini ya
Sheria hii.

Kufutwa kwa
baadhi ya
vifungu katika
baadhi ya

sheria, kuto-
tumika kwa Cap.
27 ya Sheria ya
E.A. Customs na
kuhalalisha
makosa yaliyopita.

18.(1) Vifungu vya sheria zilizotajwa hapo
chini zinafutwa -

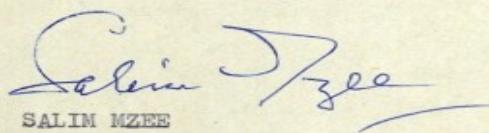
(a) kifungu cha 6 cha Sheria Nam. 5 ya 1981
(Sheria ya Biashara ya Zanzibar);

(b) kifungu cha 292 cha Sheria ya Taratibu
za Kesi za Jinai Sura ya 14 ya Sheria
za Zanzibar.

(2) Msharti ya Sura ya 27 ya Forodha ya
Afrika Mashariki hayatotumika kwa kosa lo lote chini
ya Sheria hii.

(3) Kitu chechote kilichofanywa chini ya
Sheria iliyofutwa kitatafsiriwa kuwa kimefanywa
chini ya vifungu vinavyohusika vya sheria hii na
vitaashughulikiwa kwa mujibu wa sheria hii.

Imepitishwa na Baraza la Wawakilishi tarehe
2 Aprili, 1986.


SALIM MZEE
KAIMU KATIBU, BARAZA LA
WAWAKILISHI.