



FREEPORT AUTHORITY ACT OF 1998

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ACT NO. 9... OF 1998

I ASSENT

Salmin Amour
DR. SALMIN AMOUR
PRESIDENT OF ZANZIBAR
AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

23rd July, 1999

**AN ACT TO ESTABLISH ZANZIBAR FREEPORT
AUTHORITY AND PROVIDE FOR OTHER MATTERS
RELATED THERETO AND CONNECTED THEREWITH**

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

PART I
PRELIMINARY PROVISIONS

Short title. 1. This Act may be cited as the Zanzibar Freeport Authority Act 1998 and shall come into operation on such date as the Minister may by notice in the Gazette appoint

Interpre- 2. (1) In this Act, except where the context otherwise
tation. requires:-

“Authority” means Zanzibar Freeport Authority established under section 3 of this Act;

“authorized employee” means an employee of the Authority authorized by the Director-General to exercise the powers or perform the duties in respect of which the expression is used;



“Board” means the Board of Directors of the Authority established under Section 9 of this Act;

“by authority” means by the authority of the Director General or of any officer doing his duty in the matter in relation to which the expression is used;

“Customs” means the Customs and Excise Department of the Tanzania Revenue Authority (TRA);

“Customs law” means any law in force within the United Republic imposing or relating to the collection of customs or excise duties or transfer tax;

“Customs revenue” means any amounts collectable by the Customs in accordance with the provisions of the Customs laws;

“charges” means all sums received or receivable, charged or chargeable for, or in respect of, any freeport facility or the handling or warehousing of goods by the Authority, or in respect of any other service performed or facilities provided by the Authority;

“Director-General” means the Director-General appointed by the President under Section 6 of this Act;

“employee” means any person in the services of the Authority;

“freeport” means the freeport zones set out in section 25 of this Act;

“freeport office” means any office in a freeport zone where rates and charges may be paid to the Authority;

“freeport-shed” or “freeport-warehouse” means a shed or warehouse licensed by the Director-General for the deposit of dutiable goods subject to customs control;



"Government" means the Revolutionary Government of Zanzibar;

"Government warehouse" means any place provided by the Government on the recommendation of the Customs for the deposit of dutiable goods subject to customs control;

"goods" means all kinds of articles, wares, goods, consumable items and any other merchandise, or moveable property of any description;

"licensee" means the holder of a licence granted under this act in respect of a freeport shade;

"Minister" means the Minister responsible for Finance;

"premises" means premises occupied by the Authority and include premises vested in or placed at the disposal of the Authority for the purpose of carrying out its functions;

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

"property" means any property moveable or immovable vested in the Authority for the purpose of carrying out its functions;

"rates" means all sums which may, under the provisions of this Act, be levied for, or in respect of freeport or handling or warehousing of goods by the Authority or in respect of any other service performed or facility provided by the Authority;

"regulations" means any regulation made under this Act;

"Tariff Book" means a tariff book to be published by the Authority under Section 32 of this Act;



“trans-shipment” means the transfer directly or indirectly of any goods from an aircraft, a vehicle or a vessel arriving in Zanzibar from a foreign country through the territory of one or more countries to another foreign country;

“transit” means the movement of goods from a foreign country through the territory of one or more countries to another foreign country;

“transit shed” includes a freeport shed and any transit warehouse, building, place, wagon or vehicle used by the Authority for the purpose of depositing goods subject to Customs control;

“the purposes of the Authority” means any purposes necessary or desirable for the performance of the services, or the provision of any facilities, which the Authority is authorized to perform or provide under this Act;

“United Republic” means the United Republic of Tanzania;

“uncustomed goods” includes dutiable goods on which the full duties due have not been paid, and any goods, whether dutiable or not, which are imported, exported or transferred or in way dealt with contrary to the provisions of the Customs laws;

“vehicle” means any moving support or container fitted or used on roads or highways for the conveyance of bulky objects, goods or humans, and includes bicycles, wheelbarrows or carts pulled by animals or humans;

“warehoused” means deposited in a Government or transit or freeport warehouse with the authority of the person incharge of such warehouse.

(2) In this Act and in all documents issued under this Act unless the context otherwise requires:-



- (a) "in the possession of the Authority" means the possession by any employee of the Authority in the course of his duty;
- (b) "accepted by the Authority" means accepted by an employee or agent of the Authority for handling or warehousing by the Authority in accordance with the provisions of this Act;

Provided that acceptance shall not be deemed to have been effected until a document of receipt in respect of the goods accepted, signed by an authorized employee or agent of the Authority, has been issued;

- (c) "services or facilities provided by the Authority" means services performed or facilities provided by the Authority in accordance with the provisions of this Act;
- (d) "operated by the Authority" means operated by the Authority in accordance with the provisions of this Act;
- (e) "vehicle of the Authority" includes vehicles operated on behalf of the Authority.

PART II

ESTABLISHMENT OF ZANZIBAR FREEPORT AUTHORITY AND ITS BOARD OF DIRECTORS

Establishment
of Zanzibar
Freeport
Authority.

3.(1) There is hereby established an Authority to be known as the Zanzibar Freeport Authority.

(2) The Authority shall be a body corporate by that name with perpetual succession and a common seal and shall have power to sue and be sued in its name and to acquire, hold and dispose of moveable and immovable property in its corporate name.



(3). The administrative and business headquarters of the Authority shall be situated within the Municipality of Zanzibar.

The Board
of the
Authority.

4.(1) The Authority shall have power to:

- (a) control and manage the free zones;
- (b) promote and facilitate transit trade in which goods imported in transit or for trans-shipment shall be secured;
- (c) provide facilities relating to freeport activities, including infrastructure, storage and ancillary facilities to the licensees in the freeport zones;
- (d) construct, operate and maintain warehouses and equipment within the freeport zones;
- (e) construct and operate new warehouses and equipment necessary for the freeport activities;
- (f) allocate areas, spaces, warehouses and any other facility or structure which may be available in the freeport zones on such terms as the Authority may deem fit;
- (g) act as warehousemen and to store transit and trans-shipment goods;
- (h) appoint and issue licences to operate in the freeport zones;
- (i) determine, impose and levy rents, charges, dues or fees for any facilities provided by the Authority or for the grant to any person of a licence, permit or certificate;
- (j) prohibit, control and regulate;



- (i) the use by any person of the services performed, or the facilities provided by the Authority, or
- (ii) the presence of any person, vehicle or goods within the freeport zones or on any premises occupied by the Authority for the purpose of the Authority;
- (k) sell, let or otherwise dispose off any property, moveable or immovable, subject to the approval of the Minister;

Provided that the Authority shall not sell, let or otherwise dispose of any building or land placed at its disposal by the Government otherwise than with the consent of and under conditions agreed by the Government;

- (l) to act as an agent for any person, company or organization engaged within Zanzibar or elsewhere, in the performance of services, activities or the provision of facilities, of a kind similar or complimentary to those performed or provided by the Authority;
- (m) to enter into agreements with any person, company or organization;
 - (i) for the supply, construction, manufacture, maintenance or repair by a person, company or organization of any property moveable or immovable necessary or desirable for the purposes of the Authority;
 - (ii) for the performance or provision by that person, company or organization of any of the services, activities or the facilities



which may be performed or provided by the Authority;

- (iii) for the payment, collection or appointment of any charges, rates, or other receipts arising out of the performance or the provision by that person, company or organization of any such services or facilities, and for such purposes, to finance or assist in financing the activities of the person, company or organization whether by way of loan, the holding of stocks, shares or securities, the guaranteeing of interest or the retention of any stocks, shares or securities; and

- (n) to hold shares in any other corporation or authority and to establish or acquire any subsidiary corporation.

Proof of document.

5. Any document purporting to be a document duly executed or issued under the seal of the Authority or on behalf of the Authority shall be received in evidence and be deemed to be a document so executed or issued (as the case may be) without further proof unless the contrary is shown.

Appointment of the director-General.

6. There shall be a Director-General of the Authority who shall be appointed by the President.

Executive Powers of the Director-General.

7. Subject to the provisions of this Act, the control and executive management of the Authority shall be vested on the Director-General.

Duties of the Director-General.

8. Subject to the directives of the Board, the Director-General may:



- (a) establish and operate freeport services and related facilities;
- (b) implement recurrent expenditure within limits determined by the Board;
- (c) implement any individual capital work of which the estimated cost does not exceed fifty million Tanzanian shillings or such as the Board may determine;
- (d) implement any alteration in salaries, wages or other terms and conditions of service of employees of the Authority not involving expenditure in excess of the limits determined by the Board;
- (e) implement any alteration in the establishment of the Authority as may be recommended by the Board and approved by the Minister; and
- (f) allocate functions to employees of the Authority.

Establishment
and
Composition
of the Board.

9.(1). There shall be a Board of Directors of the Authority which shall, subject to this Act, carry out the functions of managing the business and affairs of the Authority as set out under this Act.

(2) The composition of the Board of Directors shall consist of the following members:-

- (a) A chairperson who shall be appointed by the President;
- (b) The Director-General of the Authority appointed under Section 6 of this Act;
- (c) The Director-General of the Zanzibar Ports Corporation as ex-officio member;



- (d) The Deputy Commissioner of the Tanzania Revenue Authority resident in Zanzibar as ex-officio member, and
- (e) One member to be appointed by the Minister representing the interests of the business community of Zanzibar, who in the opinion of the Minister:-
 - (i) possesses experience and is involved in commerce, industry, finance, and fiscal matters; or
 - (ii) he is knowledgeable in the law pertaining to commerce, industry, finance, fiscal matters or administration; or
 - (iii) possesses experience in marine services, haulage of goods or transportation.

(3) The Secretary of the Board shall be a lawyer by profession who shall be appointed by the Minister on the recommendations of the Attorney-General.

Remuneration
of the
Board.

10. The Authority shall pay to the members of the Board such remuneration's, fees or allowances for expenses as may be approved by the Minister.

Vice-Chairperson.

11. The members of the Board shall elect a member from amongst themselves to be the Vice-Chairperson of the Board, and any member elected as Vice-Chairperson shall, subject to his continuing to be a member, hold office for a term of one year from the date of his election, and shall be eligible for re-election.

Tenure of
the Board.

12.(1) A member of the Board, other than ex-officio shall, unless his appointment is terminated by the appointing authority or he ceases in any other way to be a member, hold



office for a period of three years from the date of his appointment and shall be eligible for re-appointment.

(2) Any member of the Board, other than ex-officio may at any time resign his appointment by giving notice in writing addressed to the appointing authority and from the date specified in the notice or, if no date is so specified, from the date of the receipt of the notice by the appointing authority, he shall cease to be a member.

Appointment of
Temporary
Member.

13. When any member of the Board other than ex-officio is absent in the United Republic by reason of illness or is temporarily incapacitated by illness or other body infirmity from performing the functions of his office, the appointing authority may appoint a temporary member in his place and the temporary member shall hold office until the resumption of duty of the substantive member or until the term of office of the substantive member expires, whichever occurs first.

Duties of the
Board.

14.(1) It shall be the duty of the Board to provide by means of undertaking of the Authority, a system of coordinated freeports and related facilities.

(2) The effective performance of the duty referred to in subsection (1) of this section shall include a general duty to ensure:-

- (a) that the fullest development, consistent with economy, of the undertaking of the Authority;
- (b) that the undertaking of the Authority is operated efficiently, economically and with due regard to safety;
- (c) that the financial administration of the Authority is conducted in accordance with Part IV this Act;



- (d) that the Authority provides all reasonable facilities for the handling and warehousing of cargo and other goods in the freeport zones; and
- (e) that no particular person or body shall be subjected to any disadvantage.

Powers of the Board.

15. In the exercise of its duty under Section 14 of this Act, and subject to any directions of a general nature which may be given to it by the Minister, the Board may:-

- (a) approve any alteration in the tariffs, rates, fees and other charges made for the services provided by the Authority;
- (b) approve any alteration in salaries, wages or other terms and conditions of service of employees of the Authority;
- (c) approve any individual capital work, for the purposes of the Authority;
- (d) establish from amongst its members, committees for the purpose of the Authority and delegate its powers under this Act other than the power:-
 - (i) to borrow money;
 - (ii) to make investments;
 - (iii) to enter into any transaction in respect of capital expenditure which exceeds two hundred million Tanzanian shillings or such other amount as may be prescribed by the Board from time to time;
- (e) consider legislative proposals and recommend their enactment to the Minister;



- (f) subject to Section 4 of this Act, provide freeport services or facilities requested by the Government of any neighbouring or friendly country;
- (g) recommend any alteration in the organization or establishment of the Authority to the Minister;
- (h) give directives to the Director-General; and
- (i) prepare and submit annual report to the Minister.

Appointment
of staff.

16.(1) Subject to the provisions of this Act, the Board may appoint functional managers, directors and senior officers of the Authority as may be necessary for its efficient working under such terms and conditions, including conditions relating to discipline and dismissal, as it may deem fit.

(2) The Board may, subject to such conditions as it deems fit, delegate its powers under subsection (1) of this section on the appointment of senior officers and employees to the Director-General.

(3) The Director-General may, by notice in writing, authorize any employee appointed under this section to maintain order upon any premises occupied by the Authority, or in any freeport zone of the Authority, and any employee so authorized shall in the performance of such duty, have all the powers, rights, privileges and protection of a police officer.

Meetings of
the Board.

17.(1) The Board shall ordinarily meet for the business for the transaction of time and at places decided upon by the Board, so however but it shall meet at least once every two months.

(2) The chairperson or in his absence the vice-chairperson shall preside at every meeting of the Board. In the absence of both the chairperson and the vice-chairperson, the



members shall appoint a member from amongst themselves to preside over the meeting.

Quorum.

18. The quorum at any meeting of the Board shall be by simple majority of all the members.

Decisions of the Board.

19.(1) Questions proposed at a meeting of the Board shall be by simple majority of the votes of the members present and voting and in the event of an equality of votes the person presiding shall have a second or casting vote.

(2) Notwithstanding the provisions of subsection (1) of this section, a decision may be made by the Board without a meeting by circulation of the relevant papers among the members of the Board and the expression of the views of the simple majority of the members of the Board in writing, but any member shall be entitled to require that the decision be deferred and the subject matter be considered at a meeting of the Board.

Minutes of the Board..

20.(1) The Board shall cause the minutes of all proceedings in its meetings to be recorded and kept, and the minutes of each of the meetings shall be confirmed by the Board at the next meeting and signed by the chairperson at the meeting.

(2) The minutes book and all Board documents and papers shall be under the custody of the Secretary to the Board.

Vacancies etc not to Invalidate proceedings.

21. The validity of any act or proceeding of the Board shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.

Execution of contracts.

22.(1) The application of the official seal of the Authority shall be authenticated by two signatures, namely:-

(a) the signature of the Chairperson of the Board or some other member of the Board other than the



Director-General authorized by the Board in that behalf, and

- (b) the signature of the Director-General or some other person authorized by the Board to act for the purpose in place of the Director-General.

(2) Any instrument or contract which, if executed or entered into by a person other than a body corporate would not be required to be under seal, may be executed or entered into on behalf of the Authority by the Director-General or any other member of the Board if that member has previously been authorized, either specifically or generally by resolution of the Board to execute or enter into that particular instrument, contract or that class of instrument or control.

(3) The official seal of the Authority shall be under the custody of the Secretary of the Board.

(4) Every document purporting to be a document executed or issued by or on behalf of the Authority shall be:-

- (a) sealed with the official seal of the Authority authenticated in the manner provided by subsection (1) of this section; or
- (b) signed by the Director-General or by a member of the Board authorized in accordance with subsection (2) of this section to act for that purpose;

shall be deemed to be so executed or issued until the contrary is proved.

Board may regulate its proceedings.

23. Subject to the provisions of this Act, the Board may make rules for regulation the conduct of its own proceedings.



Minister's
Powers on
the Board.

24. The Minister may:-
- (a) give directions of a general nature to the Board relating to the operation of the undertaking of the Authority;
 - (b) approve annual capital budget and annual recurrent budge for the purpose of the Authority;
 - (c) give particular directions to the Board concerning any matter involving agreement with, or the interest of any country;
 - (d) require the Board to furnish such information with respect to the activities of the Authority, in such manner and at such times as he may specify; or
 - (e) require the Board to furnish such returns or copies of such documents, including the minutes of proceedings of the Board and the account of the Authority, as he may specify.

PART III

DECLARATION OF FREEPORT ZONES AND OPERATIONS OF THE AUTHORITY

Declaration
of
Freeport
Zones.

25. The President may, by order published in the Gazette, declare any part of Zanzibar to be Freeport zone for the purposes of this Act.

Issuance of Licence.

- 26 (1) No person shall carryout any activity in the zones without a valid licence from the Authority.



(2) An application for a licence shall be made in such form as the Authority may require.

(3) The Authority may call for such supplementary information as it may require;

(4) A licence issued under this section shall be subject to such term and conditions as the Authority may impose;

(5) Every licence shall be in the prescribed form and shall be subject to the payment of the prescribed annual fee and shall expire on the 31st December of each year.

(6) No licence granted by the Authority shall be transferable except with the approval of the Authority;

(7) The Authority may issue temporary licences in such circumstances as it may deem justified.

(8) The Authority shall not require the person applying for a licence to furnish security as a condition to the grant of the licence

Revocation
of Licences.

27.(1) The Authority may revoke a licence where the licensee:

- (a) fails within a reasonable time to carry out any activity authorized by the licence;
- (b) ceases permanently his activity; or
- (c) contravenes any provision of this Act or any conditions attached to the licence.

(2) Where the Authority revokes a licence under Subsection(1):

- (a) it shall inform the licensee accordingly;



(b) the licensee shall cease to carry out any activity forthwith.

(3) The licensee may, within fourteen days of the date of the notice of revocation, make representations to the Authority;

(4) The Authority shall consider any representations made under subsection (3) and take a decision.

(5) Any licensee who is not satisfied with Board's decision may appeal to the Minister.

Authorized
freeport
Activities.

28. The activities that may be authorized in a freeport zone shall be:

- (a) warehousing and storage;
- (b) labeling, packing and repacking;
- (c) sorting, grading, cleaning and mixing;
- (d) breaking bulk;
- (e) simple assembly;
- (f) minor processing; and
- (g) such other activity as the Minister on the advice of the Authority, may prescribe.

Exemption
from Taxation.

29. (1) A licensee shall be exempted from the payment of import duty, excise duty, sales tax and any other import levy on all machinery, equipment and materials imported into a freeport zones for exclusive use in the freeport under his license.



(2). Where import duty, excise duty, sales tax and any other import levy has been paid in respect of any goods upon their importation for home consumption in the customs territory, no refund shall be allowed solely on the ground that such goods are later transferred into a freeport zone.

(3) The Sales Tax Act the Value Added Tax Act and the Excise Ordinance shall not apply to any goods produced in a freeport zone unless such goods are entered for home consumption in the customs territory.

(4) A licensee shall be exempted from the payment of corporate taxes for twenty years.

Exemption
from Provi-
tions Related
to Customs.

30.(1) A licensee shall not be required to apply to, or to a licence from the Customs authority for warehousing dutiable goods.

(2) A Licensee shall not be restricted to a period limit or a specific duration of warehousing dutiable goods before such goods be entered either for:-

- (a) home consumption;
 - (b) exportation;
 - (c) removal to another warehouse;
 - (d) use as stores for aircraft's or vessels; or
 - (e) re-warehousing.
- (3) A licensee shall be allowed to:-
- (a) make one hundred percent of the profits.
 - (b) have one hundred percent foreign ownership.



(4). A licensee shall not be subjected to foreign currency restrictions and restriction to engage expatriate staff provided such qualified staff are not available in Zanzibar.

Dangerous
or Offensive
Goods.

31.(1) No person shall be allowed to handle warehouse dangerous or offensive goods which are likely to cause damage to person or property in the freeport zones.

(2) Where any authorized employee of the Authority has reason to believe that any goods to which this section applies are being handled or warehoused, he may examine such goods and if, on examination, they are found to be goods to which this section applies he may order their removal from any vehicle of, or premises occupied by the Authority.

(3) Nothing in this section shall derogate from the provisions of any law relating to the possession or transport of explosives, petroleum, fire arms or ammunition.

Authority
to Prepare
Tariff Book.

32.(1) The Authority shall cause to be prepared and published in such manner as it may think fit:

- (a) a Tariff Book containing all matters which under this Act are required to be contained therein together with such other matters as, under this Act, may be determined by the Authority and such other matters as the Authority may think fit;
- (b) such other books and other documents as under this Act are required to be kept.

(2) There shall be available for public inspection at every freeport Authority office a copy of the Tariff Book containing all amendments for the time being in force.



Liability
for Loss of
goods.

33.(1) Subject to this Act, or of any contract, the Authority shall not be liable for the loss, misdelivery or detention of, or damage to, goods delivered, or in the custody of the Authority except where such loss, misdelivery, detention or damage is caused by the want of reasonable foresight and care on the part of the Authority or any employee:

Provided that the Authority in no case be liable for such loss, misdelivery, detention or damage arising from:

- (a) act of God;
- (b) act of war;
- (c) seizure under legal process
- (d) act or order of the Government
- (e) act or omission of the consignor, consignee, depositor or of the servant or agent of any such person;
- (f) fire, flood, tempest, riots, civil commissions, strikes, lock-outs, stoppage or restraints of labor from whatever cause whether partial or general;
- (g) inherent liability to wastage in bulk or weight, latent or inherent defect, vice or natural deterioration;
- (h) deficiency in the contents of unbroken packages; or
- (i) insufficient or improper packing or leakage from defective drums, containers or packages.



(2) the liability of the Authority for the loss, misdelivery or detention of or damage to goods accepted by the Authority for warehousing in relation to which an account false in any material particular has been given prior to warehousing shall not in any case exceed the value of the goods as calculated in accordance with the description contained in such false account.

PART IV

FINANCIAL PROVISIONS,

ACCOUNTS AND REPORTS

Fund of
Authority.

34. (1) The Government shall provide to the Authority out of monies approved by the House of Representatives of Zanzibar such sums as may be necessary for the efficient discharge of the functions under this Act.

(2) The Authority may levy such fees and charges for its services as may be determined by the Board.

(3) All sums of money received by the Authority from any other source for its operations shall be part of funds of the Authority.

Principles of
Operations.

35. (1) It shall be the duty of the Authority to conduct its business according to commercial principles and to perform its functions in such a manner as to secure that, taking one year with another, the revenue is not less than sufficient to meet its outgoing which are properly chargeable to revenue account, including proper allocations to the general reserve and provision in respect of depreciation of capital assets, pension liabilities and interest and other provision for the payment of loans and further to ensure that, taking one year with another, its net operating income is not less than sufficient to secure an annual return on the value of the net fixed assets in operation by the Authority of



such a percentage as the Board may from time to time direct.

- (2) For the purpose of subsection (1):
 - (a) "net operating income" shall be determined by subtracting from gross operating revenue all operating and administrative expenses including taxes (if any) and adequate provision for maintenance and depreciation; and
 - (b) "value of the net fixed assets in operation" shall be the value of such assets less the amount of accumulated depreciation shown in the statement of accounts of the Authority:

Provided that, if the amounts shown in such statements of accounts do not reflect a true measure of value of the assets concerned because of currency devaluation's, changes in prices or similar factors, the value of the fixed assets shall be adjusted adequately to reflect such currency devaluation's, changes in prices or similar factors.

(3) With the prior approval of the Minister, the Board may from time to time, invest any part of the moneys available in any funds of the Authority and which is not for the time being required for the purposes of the business of the Authority in such investment as are authorized investments.

Annual
Accounts.

36. (1) The Board shall ensure that proper accounts and other records are kept in relation to the revenue and expenditure, assets and liabilities, and other financial transactions of the Authority and shall ensure that within six months of the end of each financial year of the Authority, or such longer period as the Board may allow in any particular case, a statement of accounts of the Authority is prepared, in accordance with the best commercial standards and any directions



which may be issued by the Board, and transmitted to the Auditor-General.

(2) The accounts of the Authority and of all officers and authorities of the Authority, shall be audited by the Auditor-General and for that purpose the Auditor-General and any person authorized by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts and upon receipt of a statement of accounts transmitted to him under subsection (1) the Auditor-General shall examine it, certify it and report on it and shall return the final accounts statement with the certificate and report to the Board.

PART V

MISCELLANEOUS PROVISIONS

Offences.

37. (1) Any person, company or organization who unlawfully:-

- (a) does any act which obstructs or is capable of obstructing the working of any equipment, or vehicle of the Authority used in the operation of a freeport zone and which endangers or might endanger the life of any person therein; or
- (b) damages or in any way interferes with any equipment, vehicle, facility or any property of the Authority in such a manner as to endanger the life of any person,

shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding ten years and in the case of a company or organization to a fine of not less than two million and not more than five million Tanzanian shillings.

(2) Any person, company or organization who:-



- (a) without lawful excuse, fails to comply with any condition attached to a licence;
- (b) refuses to furnish or furnishes any information or produces any document which is false or misleading in a material particular;
- (c) obstructs any officer of the Authority or of the Zanzibar Ports Corporation or a public officer in the performance of his duties under this Act or any regulation made under it; or
- (d) imports, engages in any manner whatsoever in the importation of prohibited goods or deals with prohibited goods in a freeport zone; commits an offence under this Act.

(3) Any person, company or organization who commits an offence under subsection (2) of this section, shall on conviction:-

- (a) be liable to a fine of not less than one million and not more than five million Tanzanian shillings or to an imprisonment for a term not exceeding three years; and
- (b) in the case of a company or organization to a fine of not less than two million and not more than five million Tanzanian shillings, and in addition to the fine or imprisonment, the court shall order the payment of all duties, taxes, levies and related penalties and interest due.

Employee
endangering
safety of
operation.

38. Any employee of the Authority who while on duty, endangers the safety of any person by:-



- (a) contravening any of the provisions of this Act;
or
- (b) contravening any lawful order, directive or rule given to such employee or made in respect of his service; or
- (c) being under the influence of alcohol or drugs, or
- (d) any rash or negligent act;

is guilty of an offence and shall on conviction be liable to a fine of not less than four hundred thousand Tanzanian shillings or to an imprisonment for a term not exceeding three years or to both such fine and imprisonment.

Protection of
the Board
Members.

39. Without prejudice to the provisions of this Act relating to offences, no act or thing done or omitted to be done by any member of the Board or by any employee of the Authority shall, if done or omitted bona fide in the execution or purported execution of his duties as a member of the Board or an employee of the Authority, subject him to any action, liability or demand of any kind.

Limitation of
Action.

40. No action or legal proceedings shall lie or be instituted against the Authority unless it is commenced within twelve months next after the act, neglect or default complained of or, in the case of continuing injury or damage, within six months next after the cessation thereof.

Overcharge
and
undercharge

41.(1) Where the amount paid for freeport or other charges to the Authority is found to be incorrect, then, if such amounts is:-

- (a) an overcharge, the person, company or organization who paid the charge shall be entitled to a refund of the amount of the overcharge; or



- (b) an undercharge, the Authority shall be entitled to collect the amount of the undercharge from the person, company or organization.
 - (c) Provided that such overcharge or undercharge shall not be refunded or collected, as the case may be, unless a notice in writing containing such particulars as may be reasonably necessary is given by:-
 - (i) the person, company or organization claiming such overcharge to the Director-General; or
 - (ii) the Director-General to the person, company or organization against whom the amount of such undercharge is claimed;
 - (d) within six months after such or other charge was so incurred however that, where such undercharge is caused by any information or description subsequently found to be incorrect, such period of six months shall commence from the discovery by the Authority of the correct information or description.
- (2) Where the person, company or organization claiming a refund under sub-section (1) of this section, proves to the satisfaction of the director-General, that it was impracticable for him to notify the Director-General of his claim within the time specified in that subsection, and that such



notification was made, or given in reasonable time, nothing in that subsection shall prejudice the right of such person to obtain such refund.

Tabling an
Annual
Report.

42. The Minister shall before the House of Representatives table Annual Report on the performance of the Authority.

Regulations.

43. The Minister may make regulations generally with respect to the services performed and the functions provided by the Authority for the maintenance of order in any purpose of effective execution of the provisions of this Act.

Passed in the House of Representative on the 9th day of October, 1998.

{ KHAMIS JUMA CHANDE }
CLERK TO THE HOUSE OF REPRESENTATIVES