

THE CLOVE ACT, 1985

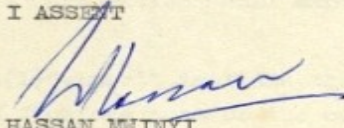
ARRANGEMENT OF SECTIONS

SECTION

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ACT NO. 11 OF 1985

I ASSENT


ALI HASSAN MWINYI
PRESIDENT OF ZANZIBAR
AND
CHAIRMAN OF THE REVOLUTIONARY
COUNCIL.

12/7/

1985.

AN ACT TO REPEAL AND REPLACE THE CLOVE DECREE, 1970, TO
PROVIDE FOR THE MORE EFFECTIVE CONTROL OF THE CLOVE
INDUSTRY OF ZANZIBAR AND FOR OTHER MATTERS INCIDENTAL TO
AND CONNECTED WITH THE INDUSTRY.

ENACTED by the House of Representatives of Zanzibar.

Short title
and commence-
ment date.

1. This Act may be cited as the Clove Act, 1985 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:-

"cloves" means the flower buds of the clove tree whether dried or otherwise, mother of cloves or clove stems;

"the Corporation" means the Zanzibar State Trading Corporation as established under the Public Enterprise Decree;

"vessel" means any type of the sailing vessel, a dhow, a canoe, a fishing boat whether propelled by an engine or not and whether having the outward appearance of a native build, or rig and includes any other vessel of the like character;

"licensing authority" means any public officer authorised by any law to issue permits for any of the purposes for which a permit is required under this Act;

"Minister" means the Minister for the time being responsible for clove industry.

Corporation
to sole
exporter.

3. (1) No person other than the Corporation shall export cloves.

(2) For the purpose of section 3(1) "export" includes the taking or transportation of dry cloves from one area of the country to another without a valid permit issued for the purpose and the reason for such taking or transportation be indicated therein.

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

Movement
of cloves
prohibited.

4. (1) No person shall move undried cloves, mother of cloves or cloves stems from one area to another except with a valid permit.

(2) Subsection (1) of this section shall not apply to clove pickers who in the course of their normal duties are returning home from the clove picking areas.

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

Cloves to be
exported
from and
landed at
the port of
Zanzibar.

5. (1) No person shall export cloves, or shall land cloves which have been shipped from the island of Pemba, otherwise than from and at the port of Zanzibar or such other port as may be prescribed for such purpose.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence.

Prohibition
of carriage
of cloves
by vessels
except
under
licence
bearing
endorsement.

6. (1) No master or owner of a vessel shall use such vessel for the carriage of cloves unless the permit issued in respect of such vessel bears a valid and subsisting endorsement made thereon.

(2) Every vessel carrying cloves shall not exceed that specified in the endorsement.

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

Sale of
cloves to
Z.S.T.C.
and
prohibition
of storage
of cloves.

7. (1) Every cultivator of cloves, owner or lessee of a clove plantation shall sell his cloves direct to the Corporation.

(2) No person shall store his cloves in his house or at any other place.

(3) Subsection (2) of this section shall not apply to the cultivator of cloves, owner or lessee of a clove plantation who possesses such cloves during a clove picking season.

(4) Subsection (2) and (3) of this section shall not apply to any person who has clove stems in his premises or other places during or after the clove picking season.

(5) Every person who contravenes the provisions of this section shall be guilty of an offence.

Power to enter and inspect premises.

8. (1) Any police officer above the rank of Sub-Inspector shall have power to enter upon and inspect any premises where he has reason to suspect that the provisions of this Act have been or are being contravened provided that such a police officer has a valid search warrant.

(2) Any person who wilfully interrupts or restricts any such police officer to enter upon and to inspect any premises suspected of having cloves shall be guilty of an offence.

Penalty.

9. (1) Any person who is guilty of an offence under the provisions of sections 3, 5 and 6 of this Act shall on conviction be liable to all of the following penalties:-

- (a) an imprisonment for a term exceeding ten years;
- (b) during his jail term to plant at least one hundred seedlings of clove trees on an area which shall be specified by the Minister; and
- (c) the cloves together with the boats, vessels, dhow or other craft engaged in such activities shall be confiscated by the Government.

(2) Any person who is guilty of an offence under any other section shall on conviction be liable to all of the following penalties:-

- (a) an imprisonment for a term of one year;
- (b) during his jail term to plant clove seedlings not exceeding fifty on areas which shall be specified by the Minister; or
- (c) the cloves and the container in which the cloves excluding have been stored shall be confiscated by the Government.

Power to
impose
levy on
exporter.

10. The Minister for Finance may, by order published in the Gazette impose a levy on all cloves exported by the Corporation not exceeding five shillings for every fifty kilos of such cloves any part thereof for the purposes of defraying any costs incurred by the Government.

Power of
Minister
to make
rules.

11. The Minister may make rules:-

- (a) prescribing anything which may be prescribed under this Act;
- (b) regulating the packing, removal, custody, inspection and shipment of cloves purchased from the Corporation;
- (c) regulating the use of dhows, canoes and other vessels for transportation of cloves, and the inspection of cloves before, during and after such transportation;
- (d) regulating the manner in which the convict shall be required to plant the seedlings.

Repeal of
Decree
No. 8/70
and savings.

12. (1) A Decree to Regulate the Clove Industry of Zanzibar number 8 of 1970 is hereby repealed.

(2) Anything done under the repealed Decree 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 13th day of June, 1985.



(IDI P. HASSAN)
CLERK TO THE HOUSE OF
REPRESENTATIVES
ZANZIBAR.

SHERIA YA KARAFUU YA 1985

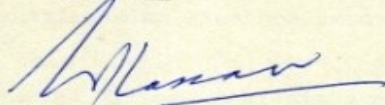
KIFUNGU

1. Jina fupi na tarehe ya kuanza kutumika.
2. Ufafanuzi.
3. Shirika ndio msafirishaji pekee.
4. Uchukuwaji wa karafuu unakatazwa.
5. Karafuu zisafirishwe au kuwekwa bandari ya Zanzibar.
6. Marufuku kusafirisha karafuu kwa ngalawa, mtumbwi, jahazi n.k.
7. Karafuu kuuzwa Z.S.T.C. na kukatazwa kuwekwa karafuu majumbani.
8. Uwezo wa kuingilia na kupekua.
9. Adhabu.
10. Uwezo wa kutoza ushuru.
11. Waziri kuweka kanuni.
12. Kufutwa kwa Sheria Nam. 8/1970.

SERIKALI YA MAPINDUZI YA ZANZIBAR

SHERIA NAM. 11 YA 1985.

NAKIBALI



ALI HASSAN MWINYI

RAIS WA ZANZIBAR NA
MWENYEKITI WA BARAZA LA
MAPINDUZI.

12 Julai, 1985.

SHERIA YA KUIFUTA NA KUIANDIKA UPYA SHERIA YA KARAFUU YA 1970,
KUDHIBITI ZAIDI SHUGHULI ZA KARAFUU NCHINI NA MAMBO MENGINE
YANAYOHUSIANA NA SHUGHULI ZA KARAFUU.

IMSTUNGWA na Baraza la Wawakilishi, Zanzibar.

Jina fupi na
tarehe ya
kuanza
kutumika.

1. Sheria hii itajulikana kuwa ni Sheria ya Karafuu ya mwaka 1985 na itaanza kutumika pale Waziri atapoitangaza katika Gazeti Rasmi la Serikali.

Ufafanuzi.

2. Katika sheria hii, ila pale inapohitajiwa vyenginevyo:-
"karafuu" maana yake ni karafuu mbichi au kavu, matende au makonyo;

"Shirika" maana yake ni Shirika la "Zanzibar State Trading Corporation, kwa ufupi "Z.S.T.C.", kama lilivyoainishwa chini ya Sheria ya Mashirika ya Umma.

"mtoaji cheti" ni mtu yeyote anaehusika na utoaji wa vyeti chini ya sheria yeyote ile inayomruhusu kutoa cheti hicho kwa madhumuni ambayo sheria hii inakusudia;

"Waziri" maana yake ni Waziri anaehusika na mambo ya karafuu;

"chombo" maana yake ni chombo chochote iwe cha kienyeji au la, jahazi, mtumbwi, ngalawa, chombo cha kuvulia iwe cha mashine au la, na inajumuisha vyombo vyengine vyovyote vya aina hiyo.

Shirika
ndio
msafirishaji
pekee.

3. (1) Hakuna mtu mwengine yeyote isipokuwa Shirika atakaesafirisha karafuu.

(2) Kwa madhumuni ya kifungu cha 3(1) usafirishaji wa karafuu unajumuisha uondowaji wa karafuu kavu kutoka sehemu moja ya nchi hadi nyengine bila ya kuwa na cheti maalum kinachoelezea sababu ya usafirishaji huo.

(3) Mtu yeyote ataekwenda kinyume na kifungu hiki atakuwa mkosa wa kosa hilo.

Uchukuwaji
wa karafuu
unakatazwa.

4. (1) Hakuna atakaeondoa karafuu mbichi, matende au makonyo kutoka sehemu moja hadi nyengine ila kwa kuwa na cheti kinachomruhusu kufanya hivyo.

(2) Kifungu cha (1) cha kifungu hichi hakitowahusu wachumaji wa karafuu ambao kwa wakati ule wanarejea majumbani baada ya kuchuma karafuu hizo.

(3) Mtu yeyote atakaekwenda kinyume na matakwa ya kifungu hiki atakuwa mkosa wa kosa hilo.

Karafuu
zisafirishwe
au kuwekwa
bandari ya
Zanzibar.

5. (1) Hakuna mtu yeyote atakayasafirisha karafuu, au atakayeziteremsha karafuu zinazotoka Pemba isipokuwa kwa kupitia au kwenye bandari ya Unguja au pahala pengine popote ambapo pataainishwa kwa madhumuni hayo.

(2) Mtu yeyote atakayekwenda kinyume na matakwa ya kifungu hiki atakuwa ni mkosa wa kosa hilo.

Marufuku
kusafirisha
karafuu kwa
ngalawa,
mtumbwi,
jahazi n.k.

6. (1) Hakuna nohodha au mwenye chombo yeyote atayetumia chombo hicho kwa kusafirishia karafuu ila iwe cheti alichopewa kwa ajili hiyo kinatoa maelezo halisi ya usafirishaji huo.

(2) Chombo chochote kinachochukua karafuu hakitozidisha idadi ile iliyoainishwa katika cheti hicho.

(3) Mtu yeyote anaekwenda kinyume na matakwa ya kifungu hiki atakuwa ni mkosa wa kosa hilo.

Karafuu
kuuzwa
Z.S.T.C.
na
kukatazwa
kuwekwa
karafuu
majumbani.

7. (1) Kila mwenye karafuu atauza karafuu zake kwa Shirika na si pengine popote.

(2) Hakuna mtu yeyote ataeziweka karafuu zake nyumbani au pahala pengine popote.

(3) Kijifungu cha (2) cha kifungu hichi hakitowahusu wale wachumishaji karafuu au wenye karafuu au waliokodi karafuu kwa kipindi kile cha msimu wa uchumaji wa karafuu.

(4) Kijifungu (2) na (3) cha kifungu hiki hakitamhusu mtu ambaye ameweka au anayo makonyo nyumbani kwake au pengine popote wakati wa au baada ya vuno la karafuu.

(5) Mtu yeyote atakaekwenda kinyume na matakwa ya kifungu hiki atakuwa ni mkosa wa kosa hili.

8. (1) Askari yeyote wa cheo zaidi ya "Sub-Inspekta" atakuwa na uwezo kuingia pahala popote na kufanya upekuzi baada ya kuwa na hati ya upekuzi ikiwa afisa huyo au mtu huyo alieruhusiwa ataamini au atakuwa na sababu za kuamini kwamba vifungu vya sheria hii vinakiukwa.

(2) Mtu yeyote ambaye kwa makusudi anamuingilia au anamzuia askari yeyote alieruhusiwa kufanya upekuzi atakuwa mkosa wa kosa hilo.

9. (1) Mtu yeyote ambaye ni mkosa chini ya kifungu cha 3, 5 au 6 cha Sheria na akipatikana na hatia atapata adhabu zote zinazofuata:-

- (a) kwenda Chuo cha Mafunzo kwa muda usiopungua miaka 10; na
- (b) wakati wa kutumia adhabu yake huko chuoni, apande mikarafuu isiopungua mia katika maeneo ambayo yataelezwa na Waziri; na
- (c) karafuu pamoja na vyombo vyote vinavyohusiana na kosa hilo vitaifishwe kuwa mali ya Serikali.

(2) Mtu yeyote ambaye ni mkosa chini ya kifungu chengine chochote cha sheria hii, na akipatikana na hatia atapata adhabu zote zifuatazo:-

- (a) kupelekwa Chuo cha Mafunzo kwa kipindi cha mwaka 1;
- (b) wakati wa kutumikia adhabu yake huko Chuoni apande mikarafuu isiozidi hamsini katika maeneo yatayoelezwa na Waziri;
- (c) karafuu pamoja na vyombo vyote vinavyohusiana na kosa hilo ambayo karafuu zimewekwa vitaifishwe kuwa mali ya Serikali.

Uwezo wa kuingilia na kupekua.

Adhabu.

Uwezo wa
kutoza
ushuru.

10. Waziri wa Fedha anaweza, kwa kutangaza katika Gazeti Rasmi la Serikali, kuweka ushuru maalum utaotolewa na shirika, na ambao hautozidi shilingi tano kwa kila kilo hamsini za karafuu au sehemu ya hizo ambazo zinasafirishwa na Shirika kwa sababu ya kulipia hasara ambazo zinaweza kupatikana na Serikali.

Waziri
kuweka
kanuni.

11. Waziri anaweza kutunga Kamuni ambazo:-


- (a) zitalenga katika kutekeleza vyema utekelezaji wa sheria hii;
- (b) zitaweka utaratibu wa kuziweka, kuziondowa, kuzitia katika magunia, kuzichunguza na kuzisafirisha karafuu hizo;
- (c) zitaweka utaratibu wa vyombo vya baharini vitavyopata ruhusa ya kuchukua karafuu hizo, na uchunguzi wa karafuu hizo kabla wakati na baada ya usafirishwaji huo; na
- (d) zitaweka utaratibu ambao mwanafunzi anaetumikia adhabu yake atatakiwa aipande mikarafuu hiyo.

Kufutwa
kwa Sheria
Nam. 8/1970.

12. (1) Sheria inayohusiana na mambo ya karafuu nambari 8 ya mwaka 1970 inafutwa.

(2) Kitu chochote kilichofanywa chini ya sheria iliyofutwa kitafasiriwa kuwa kimefanywa chini ya vifungu vinavyohusika vya sheria hii na vitashughulikiwa kwa mujibu wa sheria hii.

Imepitishwa na Baraza la Wawakilishi tarehe 13 Juni, 1985.



(IDI P. HASSAN)

KATIBU
BARAZA LA WAWAKILISHI.