



THE ZANZIBAR FAIR TRADING AND CONSUMER
PROTECTION ACT OF 1995.

ARRANGEMENT OF SECTIONS.

<u>SECTIONS</u>	<u>TITLE</u>
	PART I - PRELIMINARY PROVISIONS.
1	Short title and commencement.
2	Interpretation.
	PART II - APPLICATION.
3.	Scope of application.
	PART III - THE BUREAU AND THE TRIBUNAL.
4.	The Bureau.
5.	The Tribunal.
	PART IV - POWERS AND FUNCTIONS.
6.	Functions of the Bureau.
7.	Power of the Bureau.
8.	Functions of the Tribunal.
9.	Powers of the Tribunal.
10.	Powers of the Minister.
	PART V - PROHIBITED BUSINESS PRACTICES AND BEHAVIOUR.
11.	Restrictive agreement.
12.	Meaning of restrictive practice.
13.	Collusive practice.
14.	Predatory practice or behaviour.
15.	Prohibited practice.
16.	Sanctions.
	PART VI - CONSUMER PROTECTION.
17.	Manufacturers liability.
18.	False misleading representation.
19.	Product safety standard and unsafe.
20.	Spare parts and after sale service.
21.	Defective goods.
22.	Hoarding and restrictive supply of goods.
23.	Legal proceeding.
24.	Review and appeal.
25.	Sanction.
26.	Regulations.
27.	Repeal and saving.



ACT NO.2 OF 1995.

I ASSENT

Salmin Amour

SALMIN AMOUR
PRESIDENT OF ZANZIBAR
AND
CHAIRMAN OF THE REVOLUTIONARY
COUNCIL.

R.H. February1995.

AN ACT TO REGULATE FAIR TRADING AND
CONSUMER PROTECTION AND MATTERS
RELATED THERETO.

ENACTED by the House of Representatives of
Zanzibar.

PART I.
PRELIMINARY PROVISIONS.

Short title
and
commencement.

1. This Act may be cited as the Zanzibar
Fair Trading and Consumer Protection Act of 1995
and shall come into force on the date appointed by
the Minister.

Interpretation.

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

"appropriate authority" means the Minister
and any other public authority vested
with authority to deal with the matter
in question;

"Bureau" means the National Fair Trading and
Consumer Protection Bureau established
under section 4;

"consumer" includes any person who purchases
or offers to purchase goods or services;

2/...



- 2 -

"Director" means the chief executive of the Bureau appointed under section 4(3);

"dominant position" includes a situation where an enterprise either by itself or acting together with other enterprises is in a position to control relevant market for particular goods or service or group of goods or services;

"enterprise" means firm, partnership, corporation, company, other association, natural or judicial person or any combination thereof irrespective of the mode of creation, control, ownership or legality, which is engaged in commercial activities and includes its branch, subsidiary, affiliate or other entity directly or indirectly controlled by it;

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

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

"Tribunal" means the Fair Trading and Consumer Protection Tribunal established under section 5(1).

PART II. APPLICATION.

Scope of application.

3.(1) This Act shall apply to services and goods rendered or sold, and to agreements and practices entered or conducted by all enterprises and to any other matters the Minister may declare to fall under this Act.

(2) This Act shall not apply to agreements entered into by the Government nor to practices directly caused by such agreements save that any person likely to be aggrieved by such agreement may challenge and seek the Tribunal to declare such agreement as prohibited under this Act if -

3/....



- 3 -

- (a) such agreement is purely commercial agreement;
 - (b) such agreement is not bilateral or multilateral agreement between the Government and other Governments and other States.
- (3) This Act shall not apply to enterprises and transactions in goods and services and any business practice exempted by the Minister.

PART III.

THE BUREAU AND THE TRIBUNAL.

The
Bureau.

4.(1) There shall be established an Administering Authority to be known as the National Fair Trading and Consumer Protection Bureau.

(2) The Bureau shall be an autonomous organ of Government.

(3) The Bureau shall be headed by a Director who shall be the Chief Executive Officer of the Bureau to be appointed by the President.

(4) The staff of the Bureau shall be appointed by the appropriate authority.

(5) The Bureau may appoint Regional Officer to perform such duties and functions as may be prescribed by the Director.

The
Tribunal.

5.(1) There shall be established a Judicial Authority on Fair Trading and Consumer Protection Tribunal.

(2) The Tribunal shall be an independent judicial body whose Chairman shall be a Regional Court Magistrate or any other person qualified to Regional Magistrate Court hold office appointed by the Zanzibar Judicial Service Commission.

(3) Appeal against decision of the Tribunal shall be made to the High Court.

4/....



- 4 -

(4) Secretary of the Tribunal shall be appointed by the Minister.

(5) The Secretary shall be the Registrar of the Tribunal and shall perform all duties as such Registrar.

(6) The Minister shall appoint a panel of not more than nine (9) members of the Tribunal for a period of three years with possibility of reappointment. In the appointment of such members regard shall be made to appointing person from amongst lawyers, economists and persons with adequate knowledge and experience in business affairs or in the management of Government or public affairs.

(7) Each sitting of the Tribunal shall be constituted of two members of the panel appointed by the Chairman in whose opinion they are more conversant to deal with the matter in question and the Chairman shall form a third member of the Tribunal in each sitting.

(8) Member of the Tribunal shall have no business interests likely to effect prejudicially the functions of the Tribunal.

PART IV.

POWERS AND FUNCTIONS.

Functions
of the
Bureau.

6.(1) The functions of the Bureau shall, without prejudice to any general functions, include -

- (a) to make inquiries and investigations for carrying out the application of this Act, on its own initiative or as a result of receipt of complaints;
- (b) to take necessary decisions including the imposition of sanctions;
- (c) to undertake studies and to publish reports and provide information to the public;

5/....



- 5 -

- (d) to issue notifications, and maintain a register;
- (e) to promote exchange of information with other countries having similar Act;
- (f) to advise the Minister on matters concerning Fair Trading and Consumer Protection, and to amendment or better carrying out of this Act.

(2) The Minister may direct the Bureau to review its decisions where he is satisfied that the review is in the national interest.

Power of
the Bureau.

7. The Bureau shall exercise the following powers :-

- (a) to initiate inquiries and investigations on any allegation whether on its own motion or upon receiving complaints;
- (b) to order persons or enterprises to provide information or explanation with respect to their operation;
- (c) to look into documents, copies or abstract of the copies and if appropriate retain them;
- (d) to enter premises and conduct inspections, when duly authorised by the Director;
- (e) to appoint specialists and technical experts to assist in carrying out inquiries and investigations;
- (f) to initiate proceedings against any person or enterprise or call for the discontinuation of certain practices or deny or grant authorization or matters notified or impose sanctions as the case may be;
- (g) to appoint prosecutors to conduct all cases against contravention of this Act;
- (h) to publish information notified to the Bureau which is not legitimately confidential;
- (i) to seek approval of the Tribunal on any practice or agreement.



- 6 -

Functions
of the
Tribunal.

8. The functions of the Tribunal shall include -
- (a) to hear and determine any case or proceedings and make decisions on matters concerning Fair Trading and Consumer Protection brought before it by the Bureau or any aggrieved party and in exercising this power the Tribunal shall have the like powers of the Regional Magistrate Court;
 - (b) to approve agreement, decision and practice which though restrictive are beneficial to country when such agreements are referred to it by the Tribunal;
 - (c) to advise the Government on matters concerning Fair Trading and Consumer Protection to make the necessary proposals or recommendations for the amendment of this Act through declaratory ruling.

Powers of
the
Tribunal.

9. The powers of the Tribunal shall include -
- (a) to order the supply of all classes of data and information necessary for the application of this Act;
 - (b) to impose fines up to some specified amount for the offence falling under the provisions of this Act;
 - (c) to suspend and or overrule the decisions of the Bureau;
 - (d) to issue orders for temporary and permanent injunction of this Act.

Powers of
the
Minister.

- 10.(1) The Minister may direct the Bureau to do any of the following functions :-
- (a) to determine reasonable price structures on a national basis and to provide for their orderly variation when necessary;

7/....



- 7 -

(b) to ensure that prices of goods and services in Zanzibar are compatible with and conform to the National policy;

(2) For the avoidance of doubts it is hereby declared that the power to determine price structures in relation to goods or services include the powers to -

- (a) fix maximum prices for the sale of any goods;
 - (i) by any person to any person; or
 - (ii) by their manufacturer or importer to a wholesaler or sub-wholesaler; or
 - (iii) by a wholesaler or sub-wholesaler in such goods, to retailer in such goods; or
 - (iv) by a retailer in such goods to a consumer; or
 - (v) by a manufacturer, importer, wholesaler, sub-wholesaler or retailer such goods to a person whether or not such person is a trader in such goods; or
 - (vi) by a person who is not a trader in any particular goods to a trader in such goods;
- (b) fix the maximum service charge that may be made for any services;
- (c) fix the maximum hire, charge that may be made for the hire of any goods;
- (d) fix the maximum price, or prescribe the manner in which the maximum price shall be ascertained, of any used goods, whether for sale by traders in such goods, or by the owner of such goods;
- (e) fix the maximum amount including interest and other charges that may be charged in respect of any goods sold by way of hire purchase;

8/....



(f) prescribe the type of packing, weight, size, quality and the processing and the ingredients of any goods manufactured in Zanzibar.

(3) The Minister may by Regulations provide for mode of ascertaining the standard of goods and services and may by notice appoint or authorise any institution dealing with ascertaining standards to operate in Zanzibar as if established in, and as a public authority in Zanzibar.

(4) No goods or service which does not comply with the required standard shall be sold or offered for sale or rendered in Zanzibar.

PART V.

PROHIBITED BUSINESS PRACTICES AND BEHAVIOURS.

Restrictive agreement.

11.(1) It shall be unlawful for any person whether as principal, agent, representative or in any capacity whatsoever to participate in restrictive, predatory collusive or prohibited practice or behaviour.

(2) The Bureau may investigate any allegation as to the existence of any of the practice or behaviour mentioned under subsection (1).

(3) Upon completion of such investigation the Bureau may declare such practice or behaviour to be restrictive, predatory, collusive or prohibited and upon such declaration being made any person to be engaged himself or cause any person to be engaged in such practice shall contravene the provisions of this Act.

(4) The Bureau may, where it deems appropriate declare any arrangement restrictive, collusive, predatory or prohibited pending its investigation.



(5) Notwithstanding anything herein contained any individual interested in any business may petition before the Tribunal to declare any arrangement restrictive, collusive predatory or prohibited and may do so notwithstanding the decision of the Bureau that such arrangement is not restrictive, collusive predatory or prohibited.

Meaning of restrictive practice.

12. For the purpose of this Act any of the following practices is hereby declared restrictive practice :-

- (a) agreement or arrangement to fix prices for goods or services rendered;
- (b) agreement or arrangement to enforce restrictive sale or provision of goods or services or refusal to sale or provision of service;
- (c) collective or concerted restriction or refusal of supply of goods or service;
- (d) collective or concerted denial of access to any arrangement or association which is requisite, necessary or mandatory to competition;
- (e) any arrangement which the Bureau may by notice declare restrictive practice.

Collusive practice.

13. Any agreement or arrangement -
- (a) which is intended or is likely to give any person, group or category of persons an unfair advantage in bidding, tendering, manufacturing, supplying, selling, assembling rendering service or in any business whatsoever;
 - (b) to tender for the supply or purchase of any goods or service at prices on terms agreed between parties to such agreement or arrangement;



- (c) between two or more persons for all or any of them to abstain from tendering, selling, supplying, manufacturing, purchasing or from doing anything calculated to create unfair pricing, monopoly or undue purchase or acceptance of goods or service in the market or by any person;
- (d) whereby any party to that agreement or arrangement agrees to abstain from bidding at any auction,

is hereby declared collusive.

Predatory
practice or
behaviour.

14.(1) For the purpose of this Act -

- (a) any arrangement or agreement to lower or increase prices to eliminate competition;
- (b) any takeover or buy out of an enterprise, firm, factory or producer, seller, supplier or purchaser of any goods or services made with primary intention of eliminating competition, are hereby declared predatory practice.

(2) The Minister may make Regulations to regulate and control takeover and buy outs.

Prohibited
practice.

15.(1) For the purpose of this Act the following are declared prohibited practices :-

- (a) discriminatory pricing or terms or conditions in the supply or purchase of goods or service;
- (b) fixing the prices at which goods sold can be resold;
- (c) conditional sale under which the supply of particular goods or service is dependent upon purchase of other goods or services from supplier or his agent.



(2) The Minister may authorise any of such practice if in his opinion is in the public interest to do so.

Sanctions.

16.(1) For the purpose of this Act, arrangement may be made by a single enterprise, individual, firm or similar institution and agreement may be deemed to have been entered even if entered between related enterprises under one or similar management or between branches of one or related enterprises.

(2) Any person who contravenes the provisions of this part shall be guilty of an offence and upon conviction shall be liable to a fine of not less than five hundred thousand shillings or to imprisonment for a term of not less than six months or to both such fine and imprisonment.

PART VI.

CONSUMER PROTECTION.

Manufacturers liability.

17.(1) Every manufacturer of the goods shall be liable for any physical or health injury caused by such goods and shall be liable to ensure that the said goods comply with the prescribed standard.

(2) If -

- (a) a person holds himself out to the public as the manufacturer of the goods; or
- (b) a person causes or permits his name, a name by which he carries on business or his brand or mark to be applied to goods supplied by him, the person shall be deemed to be manufacturer of such goods.

(3) If -

- (a) goods are imported into the country by a person who is not the manufacturer of the goods; and



(b) at the time of the importation the manufacturer of the goods does not have a place of business in Zanzibar, he shall be deemed to be manufacturer of the goods.

(4) If goods are imported on behalf of a person, such person shall be deemed to have imported the said goods.

False misleading representation.

18.(1) No person shall, in connection with the supply or possible supply inducing or procuring supply of the goods or services falsely represent that goods or services are of particular standard quality, grade, composition, style, model, origin, history, previous use, approval, sponsorship characteristic, performance, use, benefit or affiliation and shall not give misleading representation on the same in any manner herein prescribed.

(2) No person shall give false or misleading representation as to the availability of spare parts, replacements or after sale service in respect of any goods or services for any reason whatsoever.

Product safety standard and unsafe.

19.(1) No person shall supply, sale or offer for sale goods or service if -

- (a) there is requisite safety warning to the public in respect of the said goods or service without giving such warning;
- (b) the sale or supply of the said goods or service is conditional upon giving particular presale or after sale service without giving such service;
- (c) there is, in respect of such goods or service, prescribed standard without complying with such standard;



(d) generally the sale or supply of the said goods or service shall contravene any condition prescribed for their supply.

(2) The Bureau may order supplier or seller of any goods or service to stop sale or supply of any goods or supply alleged to contravene this section pending investigation of the Bureau of standards authority as the case may be.

(3) The Minister may order that any goods found to contravene this section be recalled by the supplier, seller or manufacturer as he may deem appropriate and order the scheme of restitution, compensation or repair of the said goods.

(4) The Minister may order supply of goods or service found to contravene this section to cease.

Spare parts and after sale service.

20.(1) The Minister may order that particular category of goods be sold or offered for sale upon satisfactory guarantee by the supplier of adequate spare parts, substitutes and after sale service.

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

Defective goods.

21.(1) No supplier shall decline liability for defective goods or products and such supplier shall replace or repair as the consumer may wish such goods or products if returned within the prescribed time of statutory guarantee for such products.

(2) The Minister upon advice of the Bureau may, by Regulations, prescribe minimum statutory guarantee in respect of any goods or service.

Hoarding and restrictive supply of goods.

22.(1) It shall be unlawful for any person whether personally, through agents or other enterprise or in conjunction with others or through any arrangement or agreement -



- 14 -

- (a) to make hoarding of goods so as to create scarce availability of the goods whether for the purpose of bringing about price increase or not;
- (b) to make such hoarding of goods for the purpose of bringing about price increase;
- (c) to destroy the goods or render them unserviceable or destroy the means of production and or distribution whether directly or indirectly for the purpose of bringing shortage of the goods or price increase for the same.

(2) The Bureau may from time to time issue price index and quantity of public demand in respect of different goods which shall assist determination of the operation of this section.

(3) The Tribunal may review the decision of the Minister upon petition or appeal being lodged to the Tribunal by the aggrieved party.

(4) The Tribunal may suspend the decision of the Minister or of the Bureau pending determination of the petition or appeal lodged.

(5) Any person aggrieved by the decision of the Tribunal may appeal to the High Court.

(6) Period of limitation for any appeal or review shall be fourteen days after receipt of proceedings.

(7) No appeal or petition shall be entertained unless the aggrieved party gives notice of his intention to appeal or to petition within seven days of the ruling except the petition is by reason of change of circumstances.

15/....



Legal
proceeding.

23.(1) Any consumer protection association, society or organisation lawfully registered in Zanzibar shall have the right to petition on behalf of its member before the Tribunal and before any court of law to enforce any provision of this Act.

(2) Prosecutors appointed by the Bureau under section 7 shall, subject to the direction and powers of the Attorney-General have exclusive power to try any criminal offence under this Act.

(3) The Minister shall make Regulations to provide for the procedure and conduct of legal proceedings before the Tribunal.

Review and
appeal.

24.(1) In the light of change of circumstances any person or enterprise may ask the Bureau to review its decision and upon refusal or review which aggrieves such person, he may petition before the Tribunal.

(2) The Tribunal may review the decision of the Bureau upon a petition being made by an aggrieved party.

Sanction.

25.(1) Any person who contravenes the provisions of this Act or fails to comply with the order of the Bureau, the Minister or of the Tribunal shall be guilty of an offence and where no specific penalty is provided for such offence, shall be liable to a fine of not less than five hundred thousand shillings or to imprisonment for a term of six months or to both such fine and imprisonment.

(2) In addition to such fine the Bureau, the Minister, the Tribunal or the court as the case shall be, may order destruction or forfeiture of any goods or service which is subject of contravention.

Regulations.

26. The Minister may generally make Regulations for the better carrying out of this Act.



- 16 -

Repeal and
saving.

27(1) The Price Control Act, No.12 of 1985
is hereby repealed.

(2) Notwithstanding the repeal any order given
under the repealed law shall be valid until removed
by order of the Minister.

Passed in the House of Representatives
on the 18th day of January, 1995.

K Chamde

KHAMIS JUMA CHANDE

CLERK TO THE HOUSE OF REPRESENTATIVES.