

THE IMPORTS AND EXPORTS (CONTROL) ACT, 1950
ACT NO. XXXIX OF 1950

(19th April, 1950)

An Act to continue powers to prohibit or control Imports and Exports.

WHEREAS it is expedient to continue powers to prohibit, restrict or otherwise control imports into and exports from Pakistan;

It is hereby enacted as follow:-

1. **SHORT TITLE, EXTENT, COMMENCEMENT AND DURATION**

- (1) This Act may be called the Imports and Exports (Control) Act, 1950.
- (2) It extends to the whole of Pakistan. (the words "and shall remain in force for a period of twenty years" have been omitted in its application to the whole of the Tribal Areas and shall be deemed to have been so omitted on the 18th day of April, 1970, by Regulation No. 1 of 1983 Art. 2).
- (3) It shall come into force immediately.

2. **DEFINITIONS. In this Act:-**

- (a) "Chief Controller" means the officer appointed by the Federal Govt. to perform the duties of Chief Controller of Imports and Exports under this Act;
- (b) "Controller of Customs" means an officer appointed as such under section 3 of the Customs Act, 1969 (IV of 1969); and
- (c) "Import" and "Export" mean respectively bringing into, and taking out of Pakistan by sea, land or air.

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3. POWERS TO PROHIBIT OR RESTRICT IMPORTS AND EXPORTS.

- (1) The Federal Govt. may, by order published in the official Gazette and subject to such conditions and exceptions as may be made by or under the order, prohibit, restrict or otherwise control the import or export of goods of any specified description, or regulate generally all practices (including trade practices) and procedure connected with the import or export of such goods, and such order may provide for applications for licences under this Act, the evidence to be attached to such applications, the grant, use, transfer, sale or cancellation of such licences, and the form and manner in which and the periods within which appeals and applications for review or revision may be preferred and disposed of, and the charging of fees in respect of any such matter as may be provided in such order.
- (2) No goods of the specified description shall be imported or exported except in accordance with the conditions of a licence to be issued by the Chief Controller or any other officer authorised in this behalf by the Federal Govt.
- (3) All goods to which any order under sub-section (1) applies shall be deemed to be goods of which the import or export has been prohibited or restricted under section 16 of the Customs Act, 1969 (IV of 1969), and all the provisions of that Act shall have effect accordingly.
- (4) Notwithstanding anything contained in the aforesaid Act the Federal Government may, by order published in the official Gazette, prohibit, restrict or impose conditions on the clearance whether for home consumption or warehousing or shipment abroad of any imported goods or class of goods.
4. CONTINUANCE OF EXISTING ORDERS. All orders made under section 3 of the Imports and Exports (Control) Act, 1947, and in force immediately before the commencement of this Act, shall so
- Prohibited
restricted*

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far as they are not inconsistent with the provisions of this Act, continue in force and shall be deemed to have been made under this Act.

4A. PROHIBITION TO SELL OR PURCHASE IMPORT LICENCE.

No person shall sell, purchase or otherwise deal in any import licence.

4B. PROHIBITION REGARDING SALE AND TRANSFER OF GOODS BY INDUSTRIAL CONSUMER.

Except with the previous permission in writing of the Chief Controller or any other officer authorised in this behalf by the Federal Government no person who, in his capacity as industrial consumer, imports any goods against a licence issued to him or, where no licence is required for the import of such goods by an industrial consumer, without any licence shall sell or otherwise transfer such goods, or use the goods for a purpose other than the purpose or purposes for which the licence was issued or such goods were imported.

5. PENALTY.

If any person contravenes any provision of this Act or any order made or deemed to have been made under this Act or the rules made thereunder, or makes use of an import or export licence otherwise than in accordance with any condition in that behalf imposed under this Act, he shall without prejudice to any confiscation or penalty to which he may be liable under the provisions of the Customs Act, 1969 (IV of 1969), as applied by sub-section (3) of section 3 of this Act be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

5A. COMMERCIAL COURTS

- (1) The Federal Government may, by notification in the official Gazette, establish as many Commercial Courts as it considers

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necessary and, where it establishes more than one Commercial Court, shall specify in the notification the territorial limits within which, or the class of cases in respect of which, each one of them shall exercise jurisdiction under this Act.

- (2) A Commercial Court shall consist of a person who is, or has been, a Sessions judge, who shall be the Chairman, and two members, appointed from out of a panel of businessmen, executives and officers of scheduled banks drawn up by the Federal Government in consultation with the Federation of Pakistan Chambers of Commerce and Industry and the Pakistan Banking Council.
- (3) The Chairman and the members of a Commercial Court shall be appointed on such terms and conditions as the Federal Government may determine.
- (4) A Commercial Court shall sit at such place or places as the Federal Government may direct.
- (5) A Commercial Court shall have all the powers conferred by the Code of Criminal Procedure, 1898 (Act V of 1898), on a Court of Session exercising original jurisdiction
- (6) A Commercial Court shall not merely by reason of a change in its composition, be bound to recall and rehear any witness who has given evidence, and may act on the evidence already recorded by it or produced before it.
- (7) A Commercial Court shall, in all matters with respect to which no procedure has been prescribed by this Act, follow the procedure prescribed by the Code of Criminal Procedure, 1898 (Act V of 1898), for trial of cases by Magistrates, and a person conducting prosecution before a Commercial Court shall be deemed to be a Public Prosecutor;

Provided that Commercial Court may, if it thinks fit, try any case in a summary way in the manner prescribed by the said

Code for summary trials.

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- (8) The decision of a Commercial Court shall be final and shall not be called in question in any Court.

5B. JURISDICTION.

- (1) The contravention of an order made under section 3 relating to export trade shall be tried exclusively by a Commercial Court.
- (2) A Commercial Court shall not take cognizance of an offence triable under sub section (1) except upon a complaint in writing made by an officer of the Export Promotion Bureau authorised by its Chairman by a general or special order in this behalf.
- (3) A photostat copy of any document produced in support of a complaint made to a Commercial Court under sub section (2) shall be admissible in evidence:

Provided that such copy is duly attested by the Pakistan Mission in the country in which such document was written or prepared or by an officer of the Export Promotion Bureau authorised by its Chairman in this behalf.

- (4) A Commercial Court shall, as far as may be, dispose of a matter within a period of ninety days following the filing of the complaint:

Provided that any decision of the Commercial Court shall not be rendered invalid by reason of any delay in the disposal of a matter.

- (5) Where a Commercial Court finds an exporter against whom a complaint has been made guilty of contravening any provision of an order made under section 3 relating to export trade, it may, in addition to any punishment provided under section 5, make an order requiring the exporter to deposit in Court within the time specified by the Court for payment to

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the foreign buyer as compensation such amount as is in its opinion equivalent in value to the loss or damage suffered by the foreign buyer:

Provided that, where immediate payment of compensation to such foreign buyer as, in the opinion of the Commercial Court, in the best interest of the country it may direct the payment of such compensation from out of the Revolving Fund set up by the Federal Government.

- (6) The amount of compensation payable by an exporter in pursuance of an order under sub-section (5) shall be recoverable as an arrear of land revenue alongwith interest at the prevailing bank rate for the period following the expiration of the time within which such amount was payable.
- (7) The amount of compensation alongwith interest recovered from the exporter shall be credited to the Revolving Fund.

5C. TRANSFER OF PENDING CASES.

- (1) Upon the establishment of a Commercial Court, all cases to which the jurisdiction of the Commercial Court extends and which may be pending in any Court immediately before the establishment of the Commercial Court shall stand transferred to the Commercial Court.
- (2) In respect of a case transferred to a Commercial Court by virtue of sub-section (1) the Commercial Court shall not, by reason of such transfer, be bound to recall and rehear any witness who has given evidence in the case before the transfer and may act on the evidence already recorded by or produced before the court which tried the case before the transfer.

6. COGNIZANCE OF OFFENCES.

No court shall take cognizance of any offence punishable under section 5 except upon complaint in writing made:-

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(a) in the case of an offence which is punishable both under this Act or the rules made thereunder and also, whether by confiscation or otherwise, under the Customs Act, 1969 (IV of 1969) by a Collector of Customs or by an officer of Customs authorised in writing in this behalf by a Collector of Customs, or

(b) in the case of any other offence, by the Chief Controller or by an officer authorised by him in writing in this behalf.

and no court inferior to that of a Magistrate of the first class shall try any such offence.

7. SAVINGS.

No order made or deemed to have been made under this Act shall be called in question in any court, and no suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act or any rules made thereunder or an order made or deemed to have been made thereunder.

8. POWER TO MAKE RULES.

The Federal Government may make rules not inconsistent with this Act for carrying out the purposes of this Act and may in such rules provided for the setting up of a Revolving Fund and for matters relating thereto.