

CHAPTER 91:01

TRADE ACT

ARRANGEMENT OF SECTIONS

SECTION

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An Act to provide for the maintenance and regulation of supplies and for other matters incidental thereto and connected therewith. 34 of 1958

[1ST SEPTEMBER, 1959]

1. This Act may be cited as the Trade Act. Short title.

2. In this Act— Interpretation.

“the Competent Authority” means the Competent Authority appointed under section 3;

“export” means to take, or be concerned in taking out of Guyana or the territorial waters thereof, and

“exportation” shall be construed accordingly;

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“goods” includes goods of every description, produce, wares, merchandise, substances, plants, animals and birds;

“import” means to bring, or be concerned in bringing into, Guyana or the territorial waters thereof, and “importation” shall be construed accordingly.

Appointment
of Competent
Authority.
[5 of 1974]

3. (1) The Minister may appoint a Competent Authority for the purposes of this Act.

(2) The Competent Authority may, with the approval of the Minister, delegate in writing all or any of his powers, duties or functions under the provisions of this Act either generally, or in any area of Guyana or during such times, or for such purposes as he may direct, to any public officer, and may at any time with the approval of the Minister revoke or vary any such delegation.

General
functions of
Competent
Authority.

4. Without prejudice to the succeeding provisions of this Act it shall be the function of the Competent Authority to recommend programmes for maintaining, controlling and regulating supplies so as to—

- (a) secure a sufficiency of those essential to the well-being of the community, their equitable distribution and their availability at fair prices;
- (b) regulate exports and imports in a manner calculated to serve the interest of the community; and
- (c) ensure generally that the resources available to the community are used in a manner calculated to serve the interest of the community,

and for the furtherance of those purposes the Competent Authority may recommend programmes for regulating or prohibiting the importation, exportation, distribution, sale or purchase of goods, or of any class or description of goods and for controlling the prices at which goods or any class or description of goods may be sold.

5. (1) The Minister may by order provide—

(a) for prohibiting absolutely the importation or exportation of goods, or of any class or description of goods, from or to any country;

(b) for prohibiting the importation or exportation of goods, or of any class or description of goods, from or to any country except under the authority of a licence granted by the Competent Authority;

(c) for regulating the purchase or sale of goods or any class or description of goods;

(d) for controlling the prices at which goods, or any class or description of goods, may be sold, whether by wholesale or retail.

Control of
imports,
exports and
prices.
[5 of 1971
4 of 1972
5 of 1974
14 of 1975]

(2) An order made under the provisions of this section may provide—

(a) for the entering and inspection of premises to which the order relates by any person specified in the order with a view to securing compliance therewith;

(b) that persons carrying on or employed in connection with any trade or business shall produce to the Competent Authority or any person authorised in writing in that behalf by the Competent Authority such books, accounts or other documents relating to their trade or business as the Competent Authority may require, and that such persons shall furnish to the Competent Authority such estimates, returns or information as the Competent Authority may from time to time require;

(c) for such supplementary and incidental matters as may be necessary or expedient for the purpose of the order.

(3) The Minister may by notice published in the *Gazette* delegate any of his functions under this section to the Competent Authority.

(4) Any person who commits a breach of any order made under this section shall be liable, on summary conviction, to—

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(a) a fine of not less than five hundred dollars nor more than one thousand dollars and to imprisonment for not less than three months nor more than twelve months;

(b) a fine of not less nor more than one thousand dollars together with imprisonment for not less nor more than twelve months, on a second or subsequent occasion:

Provided that, where the breach of any order constitutes the offence of selling any price controlled article at a price exceeding the maximum price prescribed therefor by that order in relation to that article, he shall, except where the court for any special reasons to be recorded in writing imposes a lesser punishment (being a punishment not less than that provided in the preceding provisions), be liable on summary conviction to—

(i) a fine of not less than one thousand dollars nor more than two thousand dollars together with imprisonment for not less than six months nor more than eighteen months;

(ii) a fine of not less than two thousand dollars nor more than five thousand dollars together with imprisonment for not less than eighteen months nor more than thirty-six months on a second or subsequent occasion.

c. 80:01 (5) Where a court convicts a licensee of premises licensed for the carrying on of business under section 20 or 22 of the Tax Act, or his agent, or his employee, for the offence of refusing in the course of carrying on that business to sell goods in breach of an order made under this section or of selling goods at a price in excess of the maximum price prescribed therefor by such an order and on a previous occasion a conviction for one of those offences arose out of the carrying on subsequent to the coming into operation of this subsection of a business in which that licensee was involved, then notwithstanding anything to the contrary in any other law, and without prejudice to any other penalty which may be imposed by the court—

(a) the licence in respect of the said premises shall be deemed to be void and of no effect;

c. 80:01 (b) no licence under the aforementioned sections of the Tax Act shall be issued during the period of disqualification

mentioned in paragraph (c) in respect of the said premises, if such premises are owned by the licensee or his agent, or his employee, unless the written approval of the Minister responsible for trade is first obtained, which approval shall not be given prior to the expiration of two years from the date the disqualification commenced where the premises are situated in Georgetown, New Amsterdam or in any other town established under the Municipal and District Councils Act; and c. 28:01

(c) the licensee, and his agent or employee if he is a member of the household of the licensee, shall thereupon be deemed to be disqualified from holding a licence under the said sections of the Tax Act and from engaging in a business of a like nature for a period of five years:

Provided that the licensee or his agent or his employee who by virtue of a conviction under this Act is disqualified as aforesaid may, at any time after the expiration of two years from the date of that conviction, and from time to time, apply in writing to the Minister responsible for trade for the removal of the disqualification and on any such application the Minister may inform the Licence Revenue Officer of his decision on the application.

(6) A licensee who, after the coming into operation of this subsection, is convicted for an offence referred to in subsection (5), or whose agent or employee is convicted therefor, shall at the time of that conviction, or within three days thereafter, submit to the clerk of the court by which he or his agent or his employee was convicted—

- (a) the licence mentioned in subsection (5)(a);
- (b) written particulars of the ownership of the premises mentioned in the licence; and
- (c) the names of those persons employed by him in the carrying on of his business on those premises, or who act as his agents therein, and information as to any of them being part of his household,

and upon that submission if the disqualification under subsection (5) applies, the clerk shall forward the licence and statement to the authority by which the licence was issued.

(7) The provisions of subsection (5) (other than paragraph (b) thereof) and of subsection (6) shall *mutatis mutandis* apply to a person carrying on, or assisting in the carrying on of, or employed in, a business on premises which would, but for section 21 of the Tax Act, be required to be licensed under section 20 or 22 of that Act subject to the following modifications, that is to say,—

(a) the reference to the licence in subsection (5)(a) shall be construed as a reference to the licence under which premises situated in a public market are occupied;

(b) the requirement of the clerk of court to forward a licence and statement shall be construed as a requirement to inform the Clerk of Markets or other Competent Authority of the conviction and determination of the licence of occupancy,

and upon the determination of any such licence the licensee shall vacate the premises within one month of the determination.

(8) Notwithstanding anything to the contrary in the Summary Jurisdiction (Appeals) Act, the provisions of paragraphs (a), (b) and (c) of subsection (5) shall operate pending any appeal brought by a person against his conviction for an offence as mentioned in that subsection.

(9) Any person who—

(a) uses premises in breach of a disqualification imposed under subsection (5);

(b) while subject to a disqualification imposed under subsection (5) or (6) does any act which involves, or is preparatory to, a breach of that disqualification; or

(c) fails to comply with any of the requirements of subsection (6) or (7), or makes any false statement for the purposes thereof,

is liable on summary conviction to a like penalty as is provided for by subsection (4).

(10) Any person disqualified from holding a licence under subsection (5) or (7) who to the satisfaction of the court is shown to frequent premises with respect to which the disqualification arose and at which business as mentioned in those subsections is carried on shall, unless he proves to the satisfaction of the court that his presence thereat related to the transaction of business as a customer, be deemed to be engaged in the carrying on of business contrary to subsection (9)(b).

6. Notwithstanding the provisions of any order made under section 5(1)(a), the Minister may, if he considers the importation of any goods or any class of goods prohibited by any such order to be in the public interest, authorise the importation thereof upon such terms and conditions as he may impose.

Minister may authorise importation of prohibited goods.
[16 of 1973]

7. Where under any order made under section 5 the importation of goods or of any class or description of goods, from any country is prohibited except under the authority of a licence granted under this Act, any goods imported in breach of such prohibition shall be deemed to be prohibited goods within the meaning of the Customs Act, which have been imported contrary to the prohibition against their importation, and section 218 of the said Act shall apply.

Forfeiture of prohibited goods.
c. 82:01

8. So far as it appears to the Minister necessary or expedient for the purposes specified in section 4, he may by order authorise such person as may be designated in the order to purchase, acquire, sell or otherwise dispose of, on behalf of the Government, such goods as may be specified in the order, and make such provision for such supplementary and incidental matters as may be necessary for the purpose thereof.

Power to authorise purchase, sales, etc. of goods.
[5 of 1974]

9. (1) Where any order made by the Minister under section 5 prohibits the importation or exportation of any goods except under the authority of a licence granted by the Competent Authority, the Competent Authority may, subject to this section, grant or withhold licences for the importation or, as the case may be, exportation of such goods.

Grant of import and export licences.
[5 of 1974]

(2) A licence granted under this section—

- (a) may be either general or limited to a specified person;
- (b) may be absolute or conditional;
- (c) may be limited so as to expire on a specified date unless renewed; and
- (d) may be revoked by the Competent Authority if it is in the public interest to do so.

(3) The Minister may give to the Competent Authority directions of a general character as to the policy to be followed by him in the exercise of the performance of his functions under this section, and the Competent Authority shall act in accordance with such directions and not otherwise.

Offences.

10. (1) Any person who—

- (a) contravenes or fails to comply with any term, condition, or restriction of, or subject to which, any licence is granted by the Competent Authority under section 8, or
- (b) in or in connection with any book, account or other document or any estimate, return or information which he is required to produce or furnish to the Competent Authority by virtue of any order made under this Act, wilfully or recklessly gives any false or misleading information or makes any false or misleading statement shall be liable—

(i) on summary conviction, to a fine of seven hundred and fifty dollars and to imprisonment for six months; or

(ii) on conviction on indictment, to a fine of three thousand dollars and to imprisonment for two years.

(2) Where a body corporate is convicted of an offence under subsection (1) or of a breach of any order made under this Act, every person who at the time of the commission of the offence or breach was a director or officer of the body corporate shall be deemed to be guilty of the offence or breach unless he proves that it was committed without his knowledge or that he exercised all due diligence to prevent the commission thereof.

(3) Where a person has been convicted of any such offence or breach the court before whom he is convicted may make such order as to the forfeiture or disposal of any goods in relation to which the offence or breach was committed as the court thinks fit.

(4) Any person who attempts to commit, or conspires with any other person to commit, or does any act preparatory to, or in any way aids and abets the commission of an offence under subsection (1)(a), shall be guilty of an offence punishable in like manner as the said offence and subsection (3) shall apply in the case of an offence under subsection (1)(a).

11. (1) No person who obtains information by virtue of this Act or of any order made thereunder shall disclose that information otherwise than in the discharge of his functions under this Act or under any such order, or for the purposes of any criminal proceedings.

Restriction on disclosure of information.

(2) Any person who contravenes this section shall be liable—

(a) on summary conviction, to a fine of seven hundred and fifty dollars and to imprisonment for six months; or

(b) on conviction on indictment, to a fine of three thousand dollars and to imprisonment for two years.

(3) A prosecution for any offence under this section shall not be instituted except with the sanction of the Director of Public Prosecutions.

12. [This section formerly section 11 omitted but still in force. See Order under section 8 of the Law Revision Act, Cap. 2:02.]

13. The Minister may make regulations generally for giving effect to this Act.

Regulations.

14. Nothing in this Act shall make it lawful to import or export goods where such importation or exportation is unlawful under any other Act at present in force or which may be enacted hereafter.

Saving.