

PARLIAMENT OF CEYLON

1st Session 1960-61



Licensing of Traders Act, No. 62 of 1961

Date of Assent : July 1, 1961

Printed on the Orders of Government

Printed at the GOVERNMENT PRESS, CEYLON. To be purchased at the GOVERNMENT PUBLICATIONS BUREAU, COLOMBO.

Annual Subscription (including Bills) Rs. 25, payable in advance to the SUPERINTENDENT, GOVERNMENT PUBLICATIONS BUREAU, POST OFFICE BOX 500, Secretariat, Colombo 1.

Price : 35 cents.

Postage : 15 cents.

Licensing of Traders Act, No. 62 of 1961

L. D.—O. 9/61.

AN ACT TO MAKE PROVISION FOR THE LICENSING OF TRADERS, FOR ENSURING THE MAINTENANCE OF BUSINESS STANDARDS AND MORALITY, FOR ENABLING THE MAINTENANCE OF FAIR AND STABLE PRICES IN ESSENTIAL CONSUMER COMMODITIES, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent : July 1, 1961]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the Licensing of Traders Act, No. 62 of 1961.

Short title.

2. (1) The Minister may, by Order published in the *Gazette*, declare that, with effect from such date as shall be specified in the Order, no person, other than a person exempted from the application of this section by regulation made under this Act, shall carry on business as a trader in any class of any article unless he is the holder of a licence authorising him to carry on such business or otherwise than in accordance with the terms and conditions of such licence.

Licensing of traders.

(2) An Order under sub-section (1) may be made applicable to the whole of Ceylon or to such part of Ceylon as may be specified in the Order, and to such class or classes of traders as may be so specified.

3. Regulations may be made under this Act for or in respect of all or any of the following matters relating to any area to which, or class of traders to whom, an Order under section 2 is applicable :—

Regulations.

(a) the furnishing of returns of stocks of any article in the possession or under the control of any such trader and the particulars to be specified in such returns ;

(b) the authority or authorities by whom such licences may be granted or refused ;

- (c) the persons to whom, the circumstances in which, and the terms or conditions subject to which, licences under this Act may be granted or refused ;
- (d) the manner and mode in which applications for licences under this Act may be made and dealt with ;
- (e) the persons in respect of whom exemptions may be granted from the provisions of section 2 ;
- (f) the furnishing of all such statements and declarations relating to the business carried on by a trader in any article as may be necessary for ensuring that the provisions of this Act or any regulation made thereunder are complied with ;
- (g) the standards and morality to be observed by traders and the prohibition of acts or omissions in contravention of such standards and morality.

Power to make
Regulations.

4. (1) The Minister may make regulations for giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by sub-section (1), the Minister may make regulations in respect of all matters for which regulations are required by this Act to be made.

(3) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation upon such publication.

(4) Every regulation made by the Minister shall be brought before the Senate and the House of Representatives within a period of one month from the date of the publication of that regulation under sub-section (3), or, if no meeting is held within that period, at the first meeting after the expiry of that period, by a motion that such regulation shall be approved.

(5) Any regulation which the Senate or the House of Representatives refuses to approve shall be deemed to be rescinded but without prejudice to the validity of anything previously done thereunder or to the making of any new regulation. The date on which such regulation shall so be

deemed to be rescinded shall be the date on which the Senate or the House of Representatives refuses to approve the regulation.

(6) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the *Gazette*.

(7) Any regulation made by the Minister shall, when approved by the Senate and the House of Representatives, be as valid and effectual as if it were herein enacted. Notification of such approval shall be published in the *Gazette*.

5. (1) (a) If the authority by whom a licence has been issued to any trader in any article is satisfied that such trader has contravened any of the provisions of this Act or of any regulations made thereunder, or

Punitive orders.

(b) if it is reported to such authority by the Commissioner of Inland Revenue, the Exchange Controller, the Principal Collector of Customs, the Controller of Imports and Exports, the Director of Commerce or any other Head of a Government Department that such trader has contravened the provisions of any written law administered by any of the aforesaid persons and such authority is satisfied that such report discloses conduct on the part of such trader which in the opinion of such authority is contrary to the maintenance of business standards or morality, or

(c) if it is reported to such authority by any court, commercial bank, diplomatic mission or any Head of a Government Department that such trader has failed to maintain standards in the quality or quantity of any goods exported from, or imported into, Ceylon, or that such trader has failed to discharge any obligations arising from any commercial dealing or transaction without cause and such authority is satisfied that such failure on the part of such trader is in the opinion of such authority contrary to the maintenance of business standards or morality, or

(d) if such authority is satisfied on information supplied by any member of the public that such trader has acted or is acting in contravention of any provision of this Act, the Control of Prices Act, No. 29 of 1950, or the Food Control Act, No. 25 of 1950,

then such authority may, without prosecuting or sanctioning a prosecution of that trader, by order (hereinafter referred to as a "punitive order")—

- (i) suspend for any period specified in the order, or cancel, the licence issued to that trader, and
- (ii) require the trader to pay into the general revenue within such period, and in such manner as may be specified in the order, a sum not exceeding five thousand rupees.

(2) No punitive order shall be made against any trader in any article except after notice to him to show cause, within such period as may be specified in the notice, why such order should not be made, and except on his failing to show cause within such period or on his not showing sufficient cause.

(3) Any trader against whom a punitive order is made may appeal against it to a Tribunal of Appeal constituted under section 6 before the expiry of a period of twenty-one days after the date on which such order is communicated to that trader by or on behalf of the authority by whom such order was made.

(4) Every appeal under sub-section (3) shall—

- (a) be in writing,
- (b) set out a brief statement of the punitive order against which the appeal is preferred and the reasons urged by the appellant in support of the appeal ; and
- (c) be despatched by registered post to, or delivered by hand at, the office of the authority by whom such order was made.

(5) No punitive order shall come into force—

- (a) before the expiry of the period within which an appeal against such order may be preferred under sub-section (3) ; or
- (b) during the pendency of such an appeal ; or
- (c) before the expiry of the period within which an appeal against an order of the Tribunal of Appeal may be preferred to the Supreme Court ; or

(d) during the pendency of an appeal from the order of the Tribunal of Appeal to the Supreme Court.

(6) Any notice required to be given, or any order required to be communicated, under the preceding provisions of this section shall be deemed to have been served or communicated after the expiry of a period of two days reckoned after the date of despatch of such notice or order by letter sent by registered post to his usual place of business or residence.

(7) Any penalty imposed under this section shall be recovered in the same manner as if it were a fine imposed by a Magistrate's Court.

6. (1) For the purposes of this appeal, there shall be a Tribunal, or two or more Tribunals, of Appeal.

Constitution
of Tribunal of
Appeal.

(2) A Tribunal of Appeal (hereinafter referred to as a "Tribunal") shall consist of two or more such persons, of whom at least one shall be a person of legal experience, as the Minister may appoint.

(3) Every member of a Tribunal shall, unless he earlier resigns his office or is removed therefrom by the Minister, hold office for such period as the Minister may determine at the time of his appointment, and shall, on vacating office by effluxion of time, be eligible for reappointment.

(4) It shall be the duty of a Tribunal to hear and determine all appeals preferred in accordance with the provisions of sub-sections (3) and (4) of section 5 or sub-section (1) of section 11.

(5) A Tribunal may, in dealing with any appeal preferred to it, affirm, vary or annul the punitive order against which the appeal has been preferred.

(6) Regulations may be made prescribing the manner in which, and the conditions subject to which, an appeal to a Tribunal may be preferred.

7. (1) An appeal to the Supreme Court shall lie on any question of law, but not otherwise, against an order of a Tribunal. Any such appeal may be preferred before the expiry of a period of one month next succeeding the date of the order of the Tribunal, and such appeal shall be heard by one Judge of the Supreme Court.

Appeals to the
Supreme Court.

(2) The Supreme Court may, upon any appeal preferred under sub-section (1), affirm, vary or reverse the order of the Tribunal.

(3) Regulations may be made prescribing the manner in which, and the conditions subject to which, an appeal to the Supreme Court may be preferred.

Licence not transferable and not to be used for the benefit of any person other than the licensee.

8. (1) No licence issued under this Act to any person shall be transferable to any other person and accordingly any such transfer shall be null and void.

(2) No licence issued under this Act shall be used for the benefit of any person other than the person to whom it was issued.

Punishment of persons convicted by court.

9. (1) Any person who acts in contravention of any provision of this Act or of any regulation made thereunder shall be guilty of an offence, and shall, on conviction after summary trial before a Magistrate, be punished—

(a) for the first offence with a fine of not less than five thousand rupees or with imprisonment of either description for a term not exceeding one year or with both such fine and imprisonment, and

(b) for a subsequent offence committed after conviction of the first offence, with imprisonment of either description for a term not exceeding one year.

(2) Where an offence under this Act is committed by a body of persons, then—

(a) if that body of persons is a body corporate, every director and officer of that body corporate, and

(b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence :

Provided that a director or an officer of such body corporate or a partner of such firm shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) Any offence under this Act committed by the servant or agent of a trader who is the holder of a licence granted under this Act shall be deemed to be an offence committed by such trader unless such trader proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

10. Where any trader is convicted by a court of a contravention of any provision of this Act or of any regulation made under this Act and no appeal against the conviction is preferred or the conviction is confirmed in appeal, the licensing authority may cancel any licence or all licences issued to that trader under this Act.

Effect of
conviction of a
trader.

11. (1) Where a punitive order made against any trader comes into force or where an appeal against such order is preferred to a Tribunal and the finding that the trader has committed the contravention referred to in such order is confirmed by an order of the Tribunal, or where the Supreme Court upon an appeal from the order of the Tribunal affirms the order of the Tribunal, the authority by whom the punitive order was made may order all or any of the assets (other than assets over which there is any prior charge, lien or mortgage) of that trader relating to the business carried on under the authority of the licence to be forfeited to Her Majesty. An appeal shall lie to a Tribunal of Appeal from an order of forfeiture made under this sub-section and the provisions of sub-sections (3), (4), (5) and (6) of section 5 shall *mutatis mutandis* apply in relation to such appeal.

Forfeiture.

(2) Where any person is convicted by a court of a contravention of any provision of this Act or of any regulation made thereunder, the court may exercise the powers relating to forfeiture referred to in sub-section (1).

(3) An order of forfeiture made under the preceding provisions of this section shall be enforced in the same manner as though the forfeiture was a seizure duly effected in execution of a decree in an action under the Civil Procedure Code, and for the purposes of such execution the Attorney-General shall be deemed to be the judgment-creditor.

Offences under this Act to be cognizable.

12. Notwithstanding anything in the First Schedule to the Criminal Procedure Code, every offence under this Act or any regulation made thereunder shall be a cognizable offence within the meaning of that Code.

Certain officers deemed to be peace officers.

13. Every person exercising any powers under the Food Control Act, No. 25 of 1950, or under the Control of Prices Act, No. 29 of 1950, or under this Act or under any regulation made under any of the aforesaid Acts shall be deemed to be peace officers within the meaning of the Criminal Procedure Code for the purpose of exercising any power conferred on peace officers by that Code.

Duty of a Tribunal or a court of law to report to the Controller of Immigration and Emigration.

14. Where a Tribunal makes a punitive order in respect of any person who is not a citizen of Ceylon, or a court of law convicts any such person of any offence under this Act or any regulation made thereunder or of any offence under the provisions of any law administered by the Commissioner of Inland Revenue, the Exchange Controller, the Principal Collector of Customs, the Controller of Imports and Exports, the Director of Commerce or any other Head of a Government Department, it shall be the duty of that Tribunal or that court of law to report such person to the Controller of Immigration and Emigration.

Interpretation.

15. In this Act, unless the context otherwise requires—

“article” means any article of food, drink or merchandise,

“citizen of Ceylon” means any person who is a citizen of Ceylon under any law for the time being in force;

“trader” means any person carrying on business (whether by itself or together with any other business) as—

(a) a manufacturer of articles for the purposes of sale or supply,

(b) an importer of articles for the purposes of sale or supply,

(c) a person who sells or supplies wholesale articles to any other traders,

- (d) a person who sells or supplies at retail rates articles to consumers, or
- (e) an exporter (including a shipper) of articles in pursuance of a contract of sale or supply.

16. The provisions of this Act shall have effect notwithstanding anything contained in any other written law, and in case of conflict or inconsistency between the provisions of this Act and such other law, the provisions of this Act shall prevail.

Act to prevail
in case of
conflict with
other written
law.