

PARLIAMENT OF CEYLON

2nd Session 1953



Tea Thefts Prevention Act, No. 45 of 1953

Date of Assent : December 19, 1953

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AN ACT TO MAKE PROVISION FOR THE PREVENTION OF THEFTS OF, AND FOR THE LICENSING OF DEALERS IN, MADE TEA, GREEN TEA LEAF AND TEA SEED; FOR THE CONTROL OF THE SALE AND USE OF REFUSE TEA; AND FOR MATTERS CONNECTED WITH OR INCIDENTAL TO THE MATTERS AFORESAID.

[Date of Assent: December 19, 1953.]

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. (1) This Act may be cited as the Tea Thefts Prevention Act, No. 45 of 1953.

Short title
and operation.

(2) The provisions of sections 4 to 17 and of section 19 of this Act shall not come into operation until such date as the Minister may appoint by Order published in the *Gazette*.

2. (1) The Controller may, upon application made in that behalf and upon payment of the prescribed fee, issue a dealer's licence under his hand authorising any person to carry on the business of—

Issue,
revocation,
etc. of
dealers'
licences.

(a) a dealer in made tea, or

(b) a dealer in green tea leaf, or

(c) a dealer in tea seed.

(2) The Controller may in his discretion—

(a) refuse to issue a dealer's licence to any applicant or to renew any dealer's licence which has expired, or

(b) revoke any dealer's licence which has already been issued.

(3) Any person who is aggrieved by the refusal of the Controller to issue or renew a dealer's licence or by the revocation of a dealer's licence may prefer a written appeal to the Minister against such refusal or revocation, and the Minister may confirm or reverse such refusal or revocation. The decision of the Minister on any such appeal shall be final and conclusive and shall not be subject to question or review in any court of law.

Provisions
relating to
dealers'
licences.

3. (1) Every dealer's licence shall—

- (a) be in the prescribed form and contain the prescribed particulars,
- (b) specify the business in respect of which the licence is issued and the premises (hereinafter referred to as "the licensed premises") in which such business is authorised to be carried on,
- (c) where the licence is intended to authorise two or more persons to carry on in partnership the business specified in the licence, specify the names and addresses of the partners and the style of the partnership, and
- (d) unless earlier revoked, expire on the thirty-first day of December of the year in respect of which the licence is issued.

(2) Where any person proposes to carry on the business of a dealer in made tea or green tea leaf or tea seed in two or more premises, a separate dealer's licence authorising him to carry on such business shall be required in respect of each such premises.

(3) No dealer's licence shall be transferable and, where the person to whom a dealer's licence is issued dies, such licence shall not authorise the executor, administrator or other person administering the estate of the deceased to carry on the business specified in such licence.

Restrictions
as to sale,
purchase and
delivery of
made tea.

4. (1) No person other than a licensed dealer in made tea shall sell or deliver any made tea to any other person:

Provided, however, that nothing in the preceding provisions of this sub-section shall be deemed to prohibit—

- (a) any manufacturer from selling or delivering any made tea manufactured by him—
 - (i) to a licensed dealer in made tea, or
 - (ii) to a retailer, in any quantity not exceeding such quantity as may be prescribed as the maximum quantity which may be sold to a retailer, or
 - (iii) to any person, in any quantity not exceeding such quantity as may be prescribed as the maximum quantity which may be sold for consumption; or

- (b) any manufacturer from delivering to the registered proprietor of any estate or small holding any made tea manufactured by him for that proprietor from green tea leaf which is the produce of that estate or holding; or
- (c) the registered proprietor of any estate or small holding who is not a manufacturer from selling or delivering any made tea manufactured for him by a manufacturer from green tea leaf which is the produce of that estate or holding—
 - (i) to a licensed dealer in made tea, or
 - (ii) to a retailer, in any quantity not exceeding the prescribed maximum quantity referred to in sub-paragraph (ii) of paragraph (a) of this proviso, or
 - (iii) to any person, in any quantity not exceeding the prescribed maximum quantity referred to in sub-paragraph (iii) of paragraph (a) of this proviso; or
- (d) any retailer from selling or delivering to any person any made tea in any quantity not exceeding the prescribed maximum quantity referred to in sub-paragraph (iii) of paragraph (a) of this proviso; or
- (e) any person from delivering to any other person by way of gift any made tea in any quantity not exceeding the prescribed maximum quantity referred to in sub-paragraph (iii) of paragraph (a) of this proviso.

(2) No licensed dealer in made tea shall sell or deliver any made tea to any person other than a licensed dealer in made tea:

Provided, however, that nothing in the preceding provisions of this sub-section shall be deemed to prohibit any licensed dealer in made tea from selling or delivering any made tea—

- (a) to a retailer, in any quantity not exceeding the prescribed maximum quantity referred to in sub-paragraph (ii) of paragraph (a) of the proviso to sub-section (1), or
- (b) to any person, in any quantity not exceeding the prescribed maximum quantity referred to in sub-paragraph (iii) of paragraph (a) of the proviso to sub-section (1).

(3) No person other than a licensed dealer in made tea shall purchase or take delivery of any made tea from any other person:

Provided, however, that nothing in the preceding provisions of this sub-section shall be deemed to prohibit—

(a) the registered proprietor of any estate or small holding who is not a manufacturer from taking delivery of any made tea manufactured for him by a manufacturer from green tea leaf which is the produce of that estate or holding; or

(b) any retailer from purchasing or taking delivery of any quantity of made tea not exceeding the prescribed maximum quantity referred to in sub-paragraph (ii) of paragraph (a) of the proviso to sub-section (1); or

(c) any person from purchasing or taking delivery of any quantity of made tea not exceeding the prescribed maximum quantity referred to in sub-paragraph (iii) of paragraph (a) of the proviso to sub-section (1).

(4) No licensed dealer in made tea shall sell or deliver any made tea to any other person at any place other than his licensed premises except on a permit issued in that behalf by the Controller.

Restrictions
as to sale,
purchase and
delivery of
green tea leaf.

5. (1) No person other than a licensed dealer in green tea leaf shall sell or deliver any green tea leaf to any other person:

Provided, however, that the preceding provisions of this sub-section shall not be deemed to prohibit the registered proprietor of any estate or small holding from selling or delivering any green tea leaf which is the produce of that estate or holding.

(2) No person other than a licensed dealer in green tea leaf or a manufacturer shall purchase or take delivery of any green tea leaf from any other person.

Restrictions
as to sale,
purchase and
delivery of
tea seed.

6. (1) No person other than a licensed dealer in tea seed shall sell or deliver any tea seed to any other person:

Provided, however, that the preceding provisions of this sub-section shall not be deemed to prohibit the registered proprietor of any estate or small holding from selling or delivering any tea seed which is the produce of that estate or holding.

(2) Save as otherwise provided in sub-section (3), no person other than a licensed dealer in tea seed or a registered proprietor shall purchase or take delivery of any tea seed.

(3) The Controller may, upon application made to him in that behalf by a person to whom a licence for planting tea has been granted under the Tea Control Act, No. 28 of 1949, issue a permit under his hand authorising that person to purchase or take delivery of tea seed of such description and in such quantity or number as may be specified in the permit.

(4) The permit issued under sub-section (3) shall be in the prescribed form.

(5) Nothing in sub-section (2) shall be deemed to prohibit a person to whom a permit has been issued under sub-section (3) from purchasing or taking delivery of any quantity or number of tea seed of the description specified in the permit not exceeding the quantity or number so specified.

7. (1) No person shall purchase or take delivery of any refuse tea from any other person except under the authority of a permit granted by the Controller under this section.

Restriction
of sale or
purchase of
refuse tea.

(2) Every application for a permit authorising the purchase of refuse tea shall be made to the Controller in such form as may be provided by him for the purpose; and the Controller shall not grant any such permit unless it is shown to his satisfaction that the applicant requires refuse tea for the purposes of any business carried on or proposed to be carried on by the applicant.

(3) Every permit granted under this section shall—

(a) specify the maximum quantity of refuse tea which may be purchased under the authority thereof;

(b) specify the manufacturer from whom such quantity may be purchased; and

(c) contain such conditions as the Controller may consider necessary, including conditions specifying or restricting the purposes for which refuse tea may be used by the holder.

(4) No person, other than a manufacturer, shall sell or deliver any refuse tea to any other person.

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(5) No manufacturer shall sell or deliver any refuse tea to any person except upon surrender to the manufacturer of a permit granted under this section authorising the holder thereof to purchase refuse tea from that manufacturer.

(6) No manufacturer shall on surrender to him of any permit sell or deliver to the holder of the permit any quantity of refuse tea exceeding the quantity specified in the permit.

(7) Any person who contravenes or fails to comply with any condition inserted in a permit granted to him under this section shall be guilty of an offence under this Act.

Restrictions
as to possession
of made tea,
green tea
leaf, tea
seed and
refuse tea.

8. (1) Every person, other than a registered proprietor or a manufacturer or a licensed dealer in made tea, who has in his possession any quantity of made tea shall be guilty of an offence under this Act unless he proves to the satisfaction of the court that such tea is in his possession on behalf of a registered proprietor or a manufacturer or a licensed dealer in made tea:

Provided, however, that—

(a) the possession, by a retailer, of any made tea in any quantity not exceeding the prescribed maximum quantity referred to in sub-paragraph (ii) of paragraph (a) of the proviso to sub-section (1) of section 4 shall not constitute an offence under this Act; and

(b) the possession, by any person, of any made tea in any quantity not exceeding the prescribed maximum quantity referred to in sub-paragraph (iii) of paragraph (a) of the proviso to sub-section (1) of section 4 shall not constitute an offence under this Act.

(2) Every person, other than a registered proprietor or a manufacturer or a licensed dealer in green tea leaf, who has in his possession any green tea leaf shall be guilty of an offence under this Act unless he proves to the satisfaction of the court that such leaf is in his possession on behalf of a registered proprietor or a manufacturer or a licensed dealer in green tea leaf.

(3) Every person, other than a registered proprietor or a licensed dealer in tea seed, who has in his possession any tea seed shall be guilty of an offence under

this Act unless he proves to the satisfaction of the court that such seed is in his possession on behalf of a registered proprietor or a licensed dealer in tea seed:

Provided, however, that the possession, by a person to whom a permit has been issued under sub-section (3) of section 6, of any quantity or number of tea seed of the description specified in the permit, not exceeding the quantity or number so specified, shall not constitute an offence under this Act.

(4) Every person, other than a manufacturer, who has in his possession any quantity of refuse tea shall be guilty of an offence under this Act unless he proves to the satisfaction of the court that such refuse tea—

(a) is in his possession on behalf of a manufacturer; or

(b) was purchased or acquired by him under the authority of a permit granted under section 7.

(5) Where any person is convicted of an offence under this section in respect of any made tea or green tea leaf or tea seed or refuse tea, the court may order such tea or leaf or seed either to be restored to the person proved to the satisfaction of the court to be the lawful owner thereof or to be forfeited to Her Majesty and disposed of in such manner as the Controller may determine.

(6) Where any person is convicted of an offence under this section in respect of any made tea or green tea leaf or tea seed or refuse tea found in any vehicle or vessel, the court may order that such vehicle or vessel shall be forfeited to Her Majesty:

Provided, however, that no order under this sub-section shall be made except after notice to the owner of the vehicle or vessel, nor unless the court is satisfied that the vehicle or vessel was used with the knowledge of the owner thereof for the purpose of the transport of stolen made tea or stolen green tea leaf or stolen tea seed or stolen refuse tea.

(7) Where upon the conviction of a person under this section an order under sub-section (5) or sub-section (6) is made, an appeal shall lie to the Supreme Court from such conviction and such order, notwithstanding the provisions of section 335 of the Criminal Procedure Code.

Duties of
licensed
dealers and of
manufacturers
manufacturing
made tea from
green tea
leaf which is
not the
produce of
their estates
or small
holdings.

9. (1) Every licensed dealer shall display in a conspicuous position in his licensed premises a board bearing in English, Sinhalese and Tamil—

- (a) where he is a licensed dealer in made tea, the words “ Licensed Dealer in Made Tea ”,
or
- (b) where he is a licensed dealer in green tea leaf, the words “ Licensed Dealer in Green Tea Leaf ”, or
- (c) where he is a licensed dealer in tea seed, the words “ Licensed Dealer in Tea Seed ”.

(2) Every licensed dealer shall maintain in his licensed premises a register in the prescribed form and shall enter therein the prescribed particulars immediately upon the purchase or taking delivery or the sale or making delivery of any made tea or green tea leaf or tea seed.

(3) Where any manufacturer manufactures made tea out of green tea leaf which is not the produce of any estate or small holding of which he is the registered proprietor, he shall maintain in his tea factory a register in the prescribed form and shall enter therein the prescribed particulars immediately upon the purchase or taking delivery of any such green tea leaf or the sale or making delivery of any made tea manufactured by him out of any such green tea leaf.

(4) Where any entry made in any register required by sub-section (2) or sub-section (3) to be maintained by any licensed dealer or manufacturer is false in any material particular, the licensed dealer or manufacturer and the person by whom such entry was made shall each be guilty of an offence under this Act unless he proves to the satisfaction of the court that the entry was made without his knowledge or consent or through a *bona fide* mistake.

(5) Every licensed dealer shall keep in his licensed premises, and every manufacturer to whom sub-section (3) applies shall keep in his tea factory, scales capable of weighing up to one hundredweight avoirdupois and if, at any time referred to in section 14, any officer authorised by or under that section to inspect those premises or that factory requests that dealer to weigh any made tea or green tea leaf in those premises or to weigh or count any tea seed in those premises or requests that manufacturer to weigh any made tea or green tea leaf which is in that factory and

regarding which particulars are required by sub-section (3) to be entered in the register which he is required by that sub-section to maintain, that dealer or that manufacturer, as the case may be, shall forthwith comply with such request and shall give every facility and assistance to that officer to compare the weight or number of the articles weighed or counted by him in compliance with such request with the weight or number thereof as shown in the register which he is required by sub-section (2) or sub-section (3) to maintain:

Provided, however, that it shall not be necessary for a licensed dealer who deals solely in made tea packeted by a registered packer to keep in his licensed premises the scales referred to in this sub-section.

(6) Every licensed dealer shall on or before the fifth day of each month prepare and transmit to the Controller a return in the prescribed form relating to the quantity of made tea or green tea leaf, or the quantity or number of tea seed, purchased by or delivered to or sold or delivered by him in the preceding month.

(7) Every manufacturer to whom sub-section (3) applies shall on or before the fifth day of each month prepare and transmit to the Controller a return in the prescribed form relating to—

(a) the quantity of green tea leaf purchased by him in the preceding month from registered proprietors or from licensed dealers in green tea leaf,

(b) the quantity of green tea leaf delivered to him in the preceding month by registered proprietors for manufacture into made tea for those proprietors,

(c) the quantity of made tea manufactured by him in the preceding month from green tea leaf referred to in paragraph (a) of this sub-section, and

(d) the quantity of made tea manufactured by him in the preceding month from green tea leaf referred to in paragraph (b) of this sub-section.

10. Where there is a discrepancy between the quantity of made tea or green tea leaf, or the quantity or number of tea seed, actually found in the licensed premises of a licensed dealer or the quantity of made tea or green tea leaf actually found in the tea factory of a manufacturer to whom sub-section (3) of section 9 applies and the quantity or number thereof which, according to the entries in the register maintained

Unlawful possession of made tea or green tea leaf or tea seed by licensed dealers or by manufacturers to whom section 9(3) applies.

under that section, should be in such premises or factory, that dealer or that manufacturer, as the case may be, shall be guilty of an offence under this Act:

Provided, however, that no prosecution shall be entered if such dealer or manufacturer proves to the satisfaction of the Controller that such discrepancy has been caused in the normal manufacture of the made tea or is due to natural causes or has been occasioned by some loss or *bone fide* mistake.

Declarations.

11. (1) No licensed dealer shall take delivery, or cause or permit delivery to be taken, of any made tea or green tea leaf or tea seed which is not the produce of any estate or small holding of which he is the registered proprietor unless there is furnished to him a valid declaration in respect of such tea or leaf or seed.

(2) No manufacturer shall take delivery, or cause or permit delivery to be taken, of any green tea leaf which is not the produce of any estate or small holding of which he is the registered proprietor unless there is furnished to him a valid declaration in respect of such leaf.

(3) No registered proprietor and no person to whom a permit under sub-section (3) of section 6 has been issued shall take delivery, or cause or permit delivery to be taken, of any tea seed which is not the produce of any estate or small holding of which he is the registered proprietor unless there is furnished to him a valid declaration in respect of such seed.

(4) A declaration made for the purposes of any of the preceding sub-sections of this section shall not be valid unless it—

(a) is in the prescribed form, and

(b) is signed by a person legally entitled to sell or deliver the articles to which the declaration relates or by any other person authorised by him to sign such declarations on his behalf.

(5) Every person to whom a declaration is furnished under this section shall retain that declaration for a period of one year, and all the provisions of section 14 relating to the inspection of the register shall apply to every such declaration.

(6) A person making for the purposes of this section a declaration which to his knowledge is false in any material particular shall be guilty of an offence under this Act.

(7) In any case where the registered proprietor of any estate or small holding furnishes a declaration for the purposes of this section in respect of any articles alleged in the declaration to be the produce of that estate or holding and the total quantity or number of those articles specified in the declaration is substantially in excess of the total quantity or number of such articles which could reasonably have been produced by that estate or holding, that proprietor and the person by whom the declaration was signed shall each be guilty of an offence under this Act unless he accounts for such excess to the satisfaction of the court.

12. No person shall take delivery, or cause or permit delivery to be taken, of any made tea or green tea leaf or tea seed or refuse tea at any time between sunset and sunrise unless such delivery is authorised by a permit issued by the Controller.

Restrictions
as to taking
delivery at
night.

13. No person shall transport, or cause or permit the transport of, any made tea or green tea leaf or tea seed or refuse tea at any time between sunset and sunrise unless such transport is authorised by a permit issued by the Controller.

Restriction
as to
transport at
night.

14. (1) It shall be lawful for the Controller or any officer authorised by him in writing in that behalf, or for any police officer not below the rank of sub-inspector, to enter and inspect, at any time between sunrise and sunset, any premises in respect of which a dealer's licence is in force or any tea factory of a manufacturer to whom sub-section (3) of section 9 applies, and to call for and take extracts from the register required by this Act to be maintained in those premises or in that factory; and it shall be the duty of the licensed dealer or the manufacturer or other person for the time being in charge of those premises or that factory to give admittance to the Controller or such authorised officer or such police officer and to permit him to inspect those premises or that factory and the register and to take extracts therefrom.

Powers of
entry and
inspection.

(2) Where the Controller or any officer mentioned in sub-section (1) has reasonable grounds for believing that any offence under this Act has been or is being committed in any premises or tea factory referred to in that sub-section, it shall be lawful for

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him to exercise at any time whatsoever in respect of such premises or factory the powers conferred by that sub-section, and in any such case—

(a) any person who resists or obstructs the Controller or such officer shall be guilty of an offence under this Act, and

(b) it shall be lawful for the Controller or such officer to break into such premises or factory for the purpose of inspecting such premises or factory and the register maintained therein and of taking extracts from such register.

Contravention
of provisions
of this Act
or of
regulations.

15. Every person who contravenes or fails to comply with any provision of this Act or any regulation made thereunder shall be guilty of an offence under this Act.

Punishment
for offences
under this Act.

16. (1) Every person who is guilty of an offence under this Act shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding one year or to a fine not exceeding one thousand rupees or to both such imprisonment and such fine.

(2) Where any offence under this Act is committed by a body corporate or by a firm, every person who is a director, manager, officer or partner of that body or firm shall be guilty of that offence unless he proves that he had taken all steps to prevent the commission of the offence and the offence was committed without his knowledge or consent.

Offences to
be cognizable.
Cap. 16.

17. Every offence under this Act shall be deemed to be cognizable within the meaning of the Criminal Procedure Code, and any person against whom a reasonable suspicion exists that he is guilty of an offence under this Act may be arrested by a police officer not below the rank of sergeant. Every person so arrested shall, with all convenient despatch, be taken to the nearest police station to be dealt with according to law.

Regulations.

18. (1) The Minister may make such regulations as may be necessary for the purpose of carrying out or giving effect to the provisions and principles of this Act and in particular for prescribing any matter which is stated or required to be prescribed.

(2) No regulation made by the Minister shall have effect until it has been approved by the Senate and the House of Representatives. Every regulation which is so approved shall be published in the *Gazette* and shall be as valid and effectual as though it were herein enacted.

19. Where a licensed dealer is convicted of an offence under this Act, the Magistrate shall transmit a copy of the proceedings to the Controller for such action as he may deem necessary.

Transmission
of proceedings
on conviction
of licensed
dealer to the
Controller.

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

Interpretation.

“ Controller ” means the Tea Controller or any person acting for the Tea Controller and includes an Assistant Tea Controller;

“ dealer’s licence ” means a licence issued under section 2;

“ licensed dealer ” means the licensee specified in a dealer’s licence which is in force;

“ made tea ” means tea manufactured from the leaves, leaf buds and immature stalk of the tea-plant but does not include refuse tea;

“ manufacturer ” means a manufacturer of made tea who is for the time being registered as a manufacturer under the Tea Control Act, No. 28 of 1949;

“ prescribed ” means prescribed by regulation made under this Act;

“ refuse tea ” means sweepings, red leaf, fluff, mature stalk or any other product (not being made tea) obtained in the process of manufacture of made tea;

“ registered packer ” means a packer registered under the Food and Drugs (No. 5) Regulations 1952, made under the Food and Drugs Act, No. 25 of 1949, and published in *Gazette* No. 10,490 of January 23, 1953;

“ registered proprietor ” means the person for the time being registered under the Tea Control Act, No. 28 of 1949, as the proprietor of any estate or small holding; and includes the accredited agent of such proprietor;

“ retailer ” means a person for the time being carrying on the business of selling made tea by retail;

“ tea plant ” means the plant of the species *camellia sinensis* syn. *Camellia Thea*, Link, syn. *Thea sinensis*, Linn;

“ tea seed ” means the seed of the tea plant and includes tea plants, tea seedlings, and such cuttings from or such living portions of tea plants as are capable of being used to propagate such plants.