

THE TRADE ACT

ARRANGEMENT OF SECTIONS

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SCHEDULES

THE TRADE ACT

[1st May, 1955.]

Laws
 4 of 1955,
 17 of 1956,
 34 of 1960,
 25 of 1961.
 Acts
 7 of 1962,
 28 of 1963,
 28 of 1970,
 13 of 1976,
 18 of 1977,
 24 of 1978,
 11 of 2009.

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

Short title.

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

Interpretation.

“export” means to take, or be concerned in taking out of Jamaica or the territorial waters thereof, and “exportation” shall be construed accordingly;

“functions” include powers and duties;

28/1970
 S. 2 (b).

“goods” includes all kinds of goods, produce, wares, merchandise, substances and animals;

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

3.—(1) There shall be established for the purposes of this Act a body to be called the Prices Commission (hereafter in this Act referred to as the Commission), which shall be a body corporate to which the provisions of section 28 of the Interpretation Act, shall apply.

Establishment of Prices Commission.
 28/1970
 S. 3.

(2) The provisions of the First Schedule shall have effect as to the constitution of the Commission and otherwise in relation thereto.

First Schedule.

4.—(1) The functions of the Commission shall be—

(a) to carry out such investigations in relation to the prices of goods as the Minister may from time to time require;

Functions of the Commission.
 28/1970
 S.3.

- (b) to consider any request made to the Minister for the increase of any prices which are controlled under this Act and make recommendations in connection with such request to the Minister;
- (c) to investigate allegations of profiteering in relation to the sale of goods of any class or description and make such report and recommendations in connection therewith as it thinks fit to the Minister;
- (d) to carry out, on its own initiative, such other investigations in relation to the prices and availability of goods of any class or description as it thinks fit and make such report and recommendations as it thinks fit to the Minister;
- (e) to collect, compile and analyse information in relation to wages and other conditions of employment in any trade or business.

(2) Subject to the provisions of this Act, the Commission may, for the purpose of exercising or discharging any of its functions under this Act, do anything and enter into any transaction which, in the opinion of the Commission, is necessary to ensure the proper exercise or discharge of its functions (including any function delegated to it under section 12).

(3) The functions of the Commission specified in paragraphs (a), (c) and (d) of subsection (1) may be exercised or discharged in respect of goods referred to in subsection (2) of section 8 as well as in respect of any other goods.

5. The funds and resources of the commission shall consist of—

- (a) such moneys as may from time to time be placed at its disposition for the purposes of this Act by Parliament;
- (b) all other moneys and other property which may in any manner become payable to, or vested in the Commission in respect of any matter incidental to its functions.

Funds and
resources
of the Com-
mission.
28/1970
S. 3.

6.—(1) The Commission shall keep proper accounts and other records in relation to its business and shall prepare annually a statement of accounts in a form satisfactory to the Minister, being a form which shall conform with established accounting principles.

Accounts
and audit.
28/1970
S. 3.

(2) The accounts of the Commission shall be audited annually by an auditor or auditors appointed annually by the Commission and approved by the Minister.

7.—(1) The Commission shall, in each year—

(a) on or before the 31st day of July, submit to the Minister a report of its activities during the twelve months ending on the 31st day of March in that year, including a statement of its accounts audited in accordance with the provisions of section 6;

Annual
reports and
estimates.
28/1970
S. 3.

(b) on or before the 30th day of September, submit to the Minister for his approval its estimates of revenue and expenditure for the financial year commencing on the 1st day of April next following.

(2) Copies of reports submitted pursuant to paragraph (a) of subsection (1) together with the annual statement of accounts and auditor's report thereon shall be laid on the Tables of the House of Representatives and of the Senate and shall be published in the *Gazette*.

8.—(1) Subject to the provisions of subsection (2), the Minister may by order provide for—

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

Power to
control
imports,
exports,
hiring and
prices.
7/1962
S. 4 (a).

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

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

- (d) controlling the prices at which goods or any class or description of goods may be sold, whether by wholesale or retail;
- (e) the furnishing by persons carrying on or employed in connection with any trade or business of information concerning all or any of the elements of the cost or of the sale price of goods or any class or description of goods bought or sold whether by wholesale or retail in such trade or business;
- (f) the terms and conditions on which any class or description of goods specified in the Second Schedule shall be hired and the maximum rates of hiring which may be charged in respect of such class or description of goods.
- (g) the provision and maintenance, at places at which goods are offered for sale by retail, of means whereby persons wishing to purchase any of those goods may ascertain the weight or measurement thereof, may ascertain whether the prices of any of those goods are controlled and if so may ascertain the controlled prices; and in particular the Minister may require—
 - (i) that the prices of those goods shall be marked on the goods or on any container in or from which they are sold;
 - (ii) that where the prices of any of those goods are controlled, a legible list of the controlled prices shall be kept exhibited in a conspicuous position in the places at which those goods are offered for sale;
 - (iii) that persons shall not be obstructed in any attempt to ascertain, at the place at which they wish to purchase any of those goods, the weight or measurement thereof;

28/1963
S. 2 (b).
28/1970
S. 4.
Second
Schedule.

13/1976
S. 3(a).

- (iv) that the person offering those goods for sale in a place of any description specified in the order shall provide a seat and a table which he shall permit any person thereunto authorized by the Minister to occupy in a suitable part of that place for the purpose of giving information in respect of the prices of those goods to persons seeking that information.

(2) Nothing in subsection (1) shall be deemed to authorize the Minister to make any order under that subsection regulating the exportation, distribution, purchase, sale or price of any goods the exportation, distribution, purchase, sale or price (as the case may be) of which is, or may be, regulated under or by virtue of the provisions of any of the following Acts, that is to say—

17/1956
S. 2(b).

- (a) the Sugar Industry Control Act;
- (b) the Agricultural Produce Act;
- (c) the Agricultural Marketing Act;
- (d) the Coconut Industry Control Act;
- (e) the Coffee Industry Regulation Act;
- (f) the Cocoa Industry Board Act;
- (g) the Banana Board Act.

(3) The Minister may by order establish, in respect of any goods specified in the order, being goods for which prices have not been fixed under this Act or under any other enactment, a pricing code setting out—

13/1976
S. 3(b).

- (a) guidance as to the principles and procedure which persons offering those goods for sale shall follow in determining or increasing the price thereof;
- (b) the circumstances in which the Commission may oppose or approve any proposal to increase the price of those goods, and the effect of that opposition or approval;

- (c) the consequences (including the penalty referred to in paragraph (c) of subsection (1) of section 10) of failure to comply with the principles and procedures mentioned in paragraph (a).

Power to
authorize
purchase,
sale, etc., of
goods.
28/1963
S. 3.

9. So far as it appears to the Minister necessary or expedient for the purposes of this Act, he may by order authorize 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 purposes thereof.

Supplemen-
tary pro-
visions as
to orders.

10.—(1) An order made by the Minister under the provisions of section 8—

- (a) may provide that persons carrying on or employed in connection with any trade or business shall produce to the Minister, or any person authorized in that behalf by the Minister, such books, accounts or other documents relating to their trade or business as the Minister may require and that such persons shall furnish to the Minister, such estimates, returns or information as the Minister may from time to time require; and
- (b) may provide for such supplementary and incidental matters as may be necessary or expedient for the purposes of the order including in particular 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; and
- (c) notwithstanding anything contained in the Interpretation Act, may provide that, subject to affirmative resolution, in respect of any breach of the provisions of the order, other than a breach to which subsection (2) refers, that the offender shall be liable on summary conviction thereof before a Resident Magistrate to such fine not exceeding two million dollars or to such term of imprisonment with or without hard labour not

11/2009
S. 2(b)(i).

11/2009
S. 2(b)(ii).

exceeding two years as may be prescribed therein.

11/2009
S. 2 (b)(ii).

(2) Where under any such order 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 by the Minister, 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 the provisions of section 210 of the said Act shall apply accordingly.

11.—(1) Where an order made by the Minister under the provisions of section 8 prohibits the importation or exportation of any goods except under the authority of a licence granted by the Minister, the Minister may, subject to the provisions of 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.

(2) A licence granted under this section—

- (a) may be either general or limited to a specified person; and
- (b) may be absolute or conditional; and
- (c) may be limited so as to expire on a specified date unless renewed; and
- (d) shall be revoked by the Minister whenever it appears to him that it is in the public interest that such licence should be revoked.

12.—(1) The Minister may delegate to the Commission, or the Trade Administrator or any other public officer such of the functions of the Minister under this Act as he may specify.

Delegation
of functions.
28/1970
S. 5.

(2) A delegation under this section—

- (a) may be made subject to such terms and conditions as the Minister thinks fit;
- (b) may at any time be revoked by the Minister;
- (c) while in force shall not prevent the discharge by the Minister of any function thereby delegated.

Offences.

13.—(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 under section 11; 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 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; or
- (c) assaults or obstructs any person duly authorized by an order made by the Minister under this Act to enter or inspect any premises while such person is acting in the execution of his duty under this Act,

shall be guilty of an offence and on summary conviction thereof before a Resident Magistrate shall be liable to a fine not exceeding two million dollars and in default of payment to imprisonment with or without hard labour for a term not exceeding two years.

11/2009
S. 3 (a)(b).

(2) Where a person convicted of an offence under subsection (1) or of a breach of any order made under this Act is a body corporate 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:

Provided that where the court is satisfied that a person accused of any such offence has absconded or, after due enquiry, cannot be found in Jamaica, the court, if satisfied, after such investigation as it thinks fit, that any goods connected with the alleged offence were imported into the Island, or knowingly acquired, in contravention of this Act, may direct the forfeiture or disposal of such goods as could have been forfeited or disposed of under this Act if that person had been found guilty of the offence of which he is accused.

24/1978
S. 2.

(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 the provisions of subsection (3) shall apply in the case of an offence under this subsection as it applies in the case of an offence under subsection (1) (a).

14.—(1) No person who obtains information by virtue of the provisions 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 disclo-
sure of
information.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and on summary conviction thereof before a Resident Magistrate shall be liable to a fine not exceeding one million dollars and in default of payment to imprisonment with or without hard labour for a term not exceeding twelve months.

11/2009
S. 4.

(3) A prosecution for any offence under this section shall not be instituted without the sanction of the Director of Public Prosecutions.

Power to
summon
witnesses.
28/1970
S. 6.

15.—(1) The Commission shall have power to summon any person to attend before the Commission and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.

Third
Schedule.

(2) A summons under this section shall be in the form prescribed in the Third Schedule.

(3) A summons under this section may be served by a constable.

Duty and
privileges
of wit-
nesses.
28/1970
S. 6.

16. All persons summoned to attend and give evidence or to produce any paper, book, record or document before the Commission—

- (a) shall be bound to obey the summons served upon them;
- (b) shall be entitled, in respect of such evidence or the disclosure of any communication or the production of any such paper, book, record or document, to the same right or privilege as before a court of law;
- (c) shall be entitled to be paid their expenses, including travelling expenses, at the rates prescribed by the Witnesses' Expenses Act for witnesses who are entitled to have their expenses paid from public funds:

Provided that the Commission may disallow the whole or any part of such expenses in any case, if it thinks fit.

Penalty
for dis-
obedience,
disrespect
or ob-
struction.
28/1970
S. 6.

17. Any person who—

- (a) without sufficient cause, fails or refuses to attend before the Commission in obedience to a summons under this Act, or fails or refuses to produce any paper, book, record or document which he was required by such summons to produce; or
- (b) being a witness, leaves the Commission without the permission of the Commission; or

- (c) being a witness, refuses, without sufficient cause, to answer any question put to him by or with the permission of the Commission; or
- (d) wilfully obstructs or interrupts the proceedings of the Commission,

shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding two million dollars or in default of payment thereof to imprisonment with or without hard labour for a term not exceeding two years. 11/2009
S. 5 (a)(b).

18.—(1) The Minister may make regulations generally for giving effect to the provisions of this Act. Regulations.

(2) Regulations made under this section may provide in respect of a breach of any of the provisions thereof for the imposition, subject to affirmative resolution, of a penalty on summary conviction in a Resident Magistrate's Court of a fine not exceeding two million dollars or imprisonment for a term not exceeding two years or of both such fine and imprisonment. 11/2009
S. 6 (b).

18A.—(1) The Minister may, by order, subject to affirmative resolution increase the monetary penalties specified in this Act. Minister
may
increase
monetary
penalty.
11/2009
S. 7.

19. Nothing in this Act shall make it lawful to import or export goods when such importation or exportation is unlawful under any other enactment. Saving.

20.—(1) The Minister may by order amend the Second Schedule or substitute a new Schedule therefor. Power to
amend
Second
Schedule.
28/1963
S. 4.

(2) Every order made under this section shall be subject to affirmative resolution of the House of Representatives. 28/1970
S. 7.

28/1970
S. 8.

FIRST SCHEDULE

(Section 3)

Constitu-
tion of the
Commission.
18/1977
S. 2.

1. The Commission shall consist of such number of members, not being less than seven nor more than fifteen, as the Minister may from time to time determine.

Appoint-
ment of
members.

2.—(1) The members of the Commission shall be appointed by the Minister by instrument in writing and, subject to the provisions of this Schedule, shall hold office for a period not exceeding three years, but shall be eligible for reappointment.

(2) The Minister shall appoint one of the members of the Commission to be the chairman and another to be deputy chairman thereof.

Acting
appoint-
ments.

3. If the chairman or any other member of the Commission is absent or unable to act, the Minister may appoint any person to act temporarily in the place of the chairman of such member.

Resigna-
tions.

4.—(1) Any member of the Commission, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument, such member shall cease to be a member of the Commission.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt by the Minister of such instrument.

Revoca-
tion of
appoint-
ments.

5. The Minister may at any time revoke the appointment of any member of the Commission including the chairman.

Gazetting of
appoint-
ments.

6. The names of all members of the Commission as first constituted, and every change in the membership thereof, shall be published in the *Gazette*.

Procedure
and meet-
ings.

7.—(1) The Commission shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Commission may determine.

(2) The chairman, or in his absence the deputy chairman, shall preside at meetings of the Commission, and in the absence of both the chairman and the deputy chairman from any meeting the members present at that meeting shall elect one of their number to preside thereat.

(3) The quorum of the Commission shall be five, including the chairman or other member presiding at the meeting.

(4) The decisions of the Commission shall be by a majority of votes and, in addition to an original vote in any case in which the voting is equal, the chairman or other member presiding at the meeting shall have a casting vote.

(5) Minutes in proper form of each meeting shall be kept by the secretary and shall be confirmed by the chairman or other member presiding as soon as practicable thereafter at a subsequent meeting.

(6) The acts of the Commission shall be authenticated by the signature of the chairman or the secretary of the Commission.

(7) Subject to the provisions of this paragraph the Commission shall have power to regulate its own proceedings.

(8) The validity of any proceedings of the Commission shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

8. (1) The Commission may appoint and employ at such remuneration and on such terms and conditions as it thinks fit a secretary and such other officers, servants and agents as it thinks necessary for the proper performance of its functions: Officers and servants.

Provided that no appointment to a post carrying a salary in excess of the rate of four thousand dollars per annum shall be made without the prior approval of the Minister.

(2) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any public officer in the service of Jamaica to any office with the Commission and any public officer so appointed shall, in relation to pension, gratuity or other allowance, and to other rights as a public officer, be treated as continuing in the service of the Government.

9. (1) The seal of the Commission shall be kept in the custody of the chairman or the secretary and shall be affixed to instruments pursuant to a resolution of the Commission in the presence of the chairman, or any other member of the Commission, and the secretary. Seal.

(2) The seal of the Commission shall be authenticated by the signatures of the chairman, or any other member authorized to act in that behalf, and the secretary.

(3) All documents other than those required by law to be under seal, made by, and all decisions of the Commission may be signified under the hand of the chairman, or any other member authorized to act in that behalf, or the secretary.

10. (1) No member of the Commission shall be personally liable for any act or default of the Commission done or omitted to be done in good faith in the course of the operations of the Commission. Protection of members.

(2) Where any member of the Commission is exempt from liability by reason only of the provisions of sub-paragraph (1) the Commission shall be liable to the extent that it would be if such member were a servant or agent of the Commission.

Disclosure
of interest.

11. A member of the Commission who is interested in any company or undertaking which is an interested party in any proceedings before the Commission shall disclose to the Commission the fact and nature of his interest and shall not take part in any deliberation or any decision of the Commission relating to such matter, and such a disclosure shall forthwith be recorded in the records of the Commission.

Remunera-
tion of
members.

12. There shall be paid to the members of the Commission, such remuneration, if any, whether by way of honorarium, salary or fees, and such allowances as the Minister may determine.

Office of
member
not to be
a public
office.

13. The office of chairman or member of the Commission shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.

Expenses
of the
Commis-
sion.

14. The expenses of the Commission, including the remuneration of the members and staff thereof, shall be defrayed out of the funds of the Commission.

SECOND SCHEDULE (Section 8)

Television receiver sets.

THIRD SCHEDULE (Section 15)

Summons to Witness

To: *(name of person summoned and his calling and address, if known)*

You are hereby summoned to appear before the Prices Commission at *(place)* upon the _____ day of _____ 19____, at _____ o'clock and to give evidence respecting *(state the matter)*.

(If the person summoned is to produce any documents, add):

And you are required to bring with you *(specify the papers, books, records and documents required)*.

Therefore fail not at your peril.

Given under the hand of *(Chairman or other member of the Commission)* this _____ day of _____ 19____.