

THE GAMBIA

NO. 21 OF 2015

Assented to by The President,
this 30th day of December, 2015

YAHYA A. J. J. JAMMEH.
President



AN ACT to regulate, in the interest of the general public, the importation, distribution and retailing of essential commodities in The Gambia, to ensure their availability at fair and reasonable prices and for connected matters.

ENACTED by the President and the National Assembly.

ESSENTIAL COMMODITIES ACT, 2015.

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PART I - PRELIMINARY

1. Short title

This Act may be cited as the Essential Commodities Act, 2015.

2. Interpretation

In this Act, unless the context otherwise requires --

“Act” means the Essential Commodities Act 2015;

“Commission” means the Gambia Competition and Consumer Protection Commission;

“Directorate” means the Directorate of Trade of the Ministry;

“distributor” means a person who buys essential commodities in bulk from an importer for resale to retailers in The Gambia;

“essential commodities” means any of the following classes of commodities --

- (a) foodstuff, including rice, sugar, flour, edible oil, milk, tomato paste, onions, potatoes, whole chicken and chicken parts,
- (b) non-foodstuff, as declared by the Minister for the purposes of this act, or
- (c) any other class of commodity which the Minister may, by order published in the Gazette, declare to be an essential commodity for the purposes of this Act.

“functions” include powers and duties;

“importer” means a person who brings in or causes to be brought into The Gambia from a foreign country, essential commodities, with the intention of selling them to the Gambian market;

“licence” means a licence issued by the Minister under section 6 to enable a person to import, distribute or engage in major retail of an essential commodity;

“licensee” means a person who has been given a licence to import, distribute or engage in major retail of an essential commodity;

“major retailer” means a person who buys essential commodities in bulk from an importer or a distributor for direct resale to the general public in The Gambia;

“Minister” means the Minister responsible for Trade; and “Ministry” shall be construed accordingly;

“person” includes an individual and a body corporate;

“Technical Committee” means the Committee set up by the Directorate and the Commission by virtue of section 5 (d) to review applications and make recommendations to the Minister;

“trading premises” means any place where essential commodities are displayed or stored for sale including a business warehouse.

3. Application

(1) This Act applies to the whole of The Gambia.

(2) The Act applies to the importation, distribution and major retailing of any essential commodity within The Gambia.

(3) The Act does not apply to re-export and transit trade.

4. Administration and enforcement of the Act

(1) This Act shall be jointly administered by the Ministry and the Commission.

(2) The Act shall be enforced by the Commission through authorised officers who shall carry identity cards for inspection purposes.

PART II – FUNCTIONS OF THE DIRECTORATE, THE COMMISSION AND THE MINISTER

5. Functions of the Directorate and the Commission

The Directorate and the Commission shall –

- (a) formulate a licence application form;
- (b) develop the terms and conditions for issuing a licence;
- (c) develop application and evaluation procedures;
- (d) establish a Technical Committee comprising of members of the Directorate and the Commission to review applications and advise the Minister;
- (e) designate authorised officers who may at any reasonable times enter any trading premises to carry out inspections, and
- (f) monitor the compliance of licensees with the terms and conditions of their licences.

6. Functions of the Minister

The Minister shall –

- (a) on the recommendation of the Technical Committee, issue licences to importers, distributors and major retailers of essential commodities based on a clear and transparent application and evaluation process;
- (b) declare a commodity an essential commodity;
- (c) ensure that licensees import on a regular basis and maintain the specified minimum stock; and
- (d) reserve the right to not issue a licence to any importer, distributor or major retailer who does not fulfil the requirements for the issue of a licence.

7. Additional powers of the Minister

- (1) The Minister may by order published in the Gazette, declare any goods to be essential commodities for the purposes of this Act.
- (2) In declaring any goods to be essential commodities, the Minister shall take into account any relevant treaty or convention ratified by The Gambia.

PART III – ESSENTIAL COMMODITIES LICENCE

8. Conditions for trading in essential commodities

(1) A person shall not import, distribute or engage in major retail of any essential commodity in The Gambia without a licence issued by the Minister.

(2) Without prejudice to sub-section (1), the Minister may by order published in the Gazette –

- (a) require a licensee to open and maintain a register of importation, distribution and sales data in The Gambia in such format as may be specified in the order; and
- (b) require a licensee to –
 - (i) submit importation data, weekly stock levels, wholesale prices and retail prices of essential commodities to the Ministry in the specified format and timeframe, or
 - (ii) disclose to the Ministry and the Commission the location or locations of all its trading premises.

(3) A licensee shall comply with the provisions of –

- (a) the Gambia Consumer Protection Act, No.3 of 2014;
- (b) the Food Safety and Quality Act, No.7 of 2011;
- (c) the Hoarding (Prohibition) Act, No.8 of 2009;
- (d) the Competition Act, No.4 of 2007; and
- (e) any other enactment of the National Assembly relating to food or feed business.

(4) A licensee shall ensure that all essential food commodities that he or she imports into The Gambia conform to Gambian standards and approved specifications.

9. General conditions relating to a licence

(1) A licence, or a certified copy of it, must be openly and prominently displayed in the public part of trading premises, where any person entering the trading premises may read it.

(2) A licence issued under this Act –

- (a) remains the property of the Government of the Gambia;

- (b) may be cancelled or suspended at any time subject to Section 16; and
- (c) may not be tampered with or defaced in any manner.

10. Application procedure

- (1) A person shall apply to the Ministry for a licence.
- (2) An applicant for a licence shall complete an application form as specified and submit it, together with the following information and documents –
 - (a) if the applicant is an individual –
 - (i) his or her name, business address, type of business, passport size photo and contact information,
 - (ii) a certified copy of his or her identity document;
 - (b) if the applicant is a corporate entity or a charitable trust –
 - (i) a certified copy of its certificate of incorporation or its business registration certificate,
 - (ii) a copy of its tax identification number certificate,
 - (iii) a copy of its trade licence, and
 - (iv) its tax clearance certificate.
- (3) A person shall not pay a fee when applying for a licence.

11. Evaluation of application and procedure for issuing of licence

- (1) The Technical Committee shall evaluate an application in an open, non-discriminatory and transparent manner.
- (2) The Technical Committee shall, within ten working days from the date of submission of a complete application, evaluate the application and advise the Minister in writing to issue or not issue a licence.
- (3) If an applicant for a licence fails to provide the required information under section 10 (2), the Technical Committee may advise the Minister to not issue a licence.

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(4) The Technical Committee shall, in case it advises the Minister to not issue a licence, state the reasons for giving such advice.

(5) The Minister shall within five working days from the date of receipt of the advice from the Technical Committee decide to issue or not issue a licence.

(6) The Minister shall, in deciding to not issue a licence, provide to the applicant in writing in the prescribed form the reasons for his or her decision through the Ministry.

(7) If the Minister decides to ~~not~~ issue a licence due to incomplete information, the Ministry shall notify the applicant to submit the required information and grant the applicant an opportunity to apply afresh.

(8) If an applicant is not satisfied with the decision of the Minister to not issue a licence, the applicant may apply to the Minister in writing in the prescribed form for a review of the Minister's decision.

(9) An application for a review of the Minister's decision to not issue a licence shall be made not later than thirty days from the receipt of that decision.

12. Additional Information

The Minister may request for such additional information from an applicant as may be necessary to enable the Minister to make a decision regarding the issuing of a licence or for regulatory purposes.

13. Non-transferability of a licence

A licensee shall not transfer or assign a licence to another person.

14. Terms and renewal of licences

(1) A licence shall be valid for such period as shall be specified in it and shall cease to be valid on the date of the expiry of the licence.

(2) A licensee shall apply to the Ministry for a renewal of his or her licence not later than three months before the date of the expiry of the licence.

(3) A licence may be renewed for such further term as may be determined by the Minister on the advice of the Technical Committee.

(4) A licensee shall cease to import, distribute or engage in major retail of an essential commodity if –

- (a) the validity of his or her licence expires; or
- (b) his or her application for renewal is rejected by the Minister

15. Amendment of licence

(1) A licensee may apply, in writing, to the Minister for a licence to be amended by –

- (a) specifying the amendment sought; and
- (b) providing the reasons for seeking that amendment.

(2) The Minister shall consider the application and may issue an amended licence to the applicant if the amendment does not –

- (a) affect any rights, debts, liabilities or obligations of the licensee;
- (b) render defective any legal proceedings started by the licensee; or
- (c) render defective any legal proceedings that could have been started or continued against the licensee

prior to the amendment of the licence.

16. Suspension or cancellation of licence

(1) The Minister may, on the advice of the Technical Committee, suspend or cancel any licence if –

- (a) the licence had been issued on the basis of information which was incomplete, misleading, or incorrect in any material particular; or
- (b) the licensee has failed to comply with any of the provisions of this Act

notwithstanding any other penalty provided under this Act.

(2) The Minister may not suspend or cancel a licence unless the Minister notifies the licensee in writing of the Minister's intention to suspend or cancel such licence.

(3) The Minister's notice of intention to suspend or cancel a licence shall –

- (a) set out the particulars of the alleged failure or contravention by the licensee; and
 - (b) require the licensee to make such representations to the Minister as may be necessary, not later than thirty days after the date of receipt of the Minister's notice.
- (4) Before deciding to suspend or cancel a licence, the Minister shall consider –
- (a) the steps taken by the licensee to remedy the alleged failure or contravention concerned; or
 - (b) the steps taken by the licensee to prevent a repeat of such failure or contravention; and
 - (c) any other relevant matter submitted by the way of the representations under sub-section (3) (b).

PART IV – MISCELLANEOUS

17. Offences and penalties

(1) A person who imports, distributes or engages in major retail of any essential commodity in The Gambia without a licence issued by the Minister commits an offence and is liable on conviction if –

- (a) an importer, to a fine of not exceeding one hundred thousand dalasis;
- (b) a distributor, to a fine of not exceeding seventy thousand dalasis;
- (c) a major retailer, to a fine of not exceeding fifty thousand dalasis

and in default to imprisonment for not more than six months.

(2) A licensee who fails to provide information required under section 8 (2) (b) and (c) commits an offence and is liable on conviction if –

- (a) an importer, to a fine of not exceeding one hundred thousand dalasis;
- (b) a distributor, to a fine of not exceeding fifty thousand dalasis;
- (c) a major retailer, to a fine of not exceeding twenty five thousand dalasis

and in default to imprisonment for not more than six months.

18. Proceeds from fines

Any fines collected shall be deposited into the Consolidated Revenue Fund.

19. Appeals


(1) A person aggrieved with a decision of the Minister under this Act may request for review to the Minister within thirty days of the notification of the decision.

(2) The Minister shall set up a review Committee to hear appeals against decisions of the Minister.

20. Regulations

The Minister may make Regulations generally for the better carrying into effect of the provisions of this Act.

PASSED in the National Assembly this 29th day of December, in the year of Our Lord Two Thousand and Fifteen.

for 
D. C. M. Kebbeh
Clerk of the National Assembly

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed in the National Assembly, and found by me to be a true and correct copy of the said Bill.

for 
D. C. M. Kebbeh
Clerk of the National Assembly.