

ESSENTIAL COMMODITIES BILL, 2015

A BILL ENTITLED

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

ENACTED by the President and the National Assembly.

1. Short title

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

2. Interpretation

In this Bill, unless the context otherwise requires –

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

“**dealer**” means an importer or major retailer of essential commodities;

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

“**essential commodities**” include rice, sugar, flour, edible oil, milk, tomato paste, onions, potatoes, whole chicken and chicken parts.

“**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;

“**major retailer**” means a person who pays 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 or unincorporated;

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

3. Establishment of a licence for the importation, distribution and retailing of essential commodities

(1) This Bill establishes a license for the importation, distribution or sale of such essential commodities throughout the Gambia for the purposes of ensuring the availability of essential commodities at reasonable prices, and for connected matters.

(2) Without prejudice to Sub-section (1), the conditions for the issuance of the license covers but not limited to the following matters:

- a) The applicant must maintain honest and fair pricing in The Gambia;
- b) The applicant can sell essential food commodities to any buyer for export out of The Gambia;
- c) The applicant can only sell essential food commodities to distributor/major retailers who are licensed to sell in The Gambia;
- d) The applicant shall submit stock level and wholesale price or retail price of essential food commodities to the Ministry of Trade, Industry, Regional Integration and Employment (MOTIE) in the format and timeframe specified;
- e) The applicant shall disclose to MOTIE the location(s) of all it's stores;
- f) The applicant must not be involved in hoarding and anti-competitive behaviours;
- g) The applicant must comply with the provisions of the Food Safety and Quality Act 2011, Competition Act 2007, Gambia Consumer Protection Act 2014 and any other relevant Act that may come into force;
- h) The applicant must ensure that all essential food commodities imported into the country meet Gambian Standards or approved specifications;
- i) The applicant shall keep an import or distribution register (soft and hard copy) of essential food commodities imported in The Gambia in the format specified by MOTIE
- j) The applicant shall keep a sale register (soft and hard copy) of regular distributors/retailers/customers (those licensed to operate in the domestic market and those involve in the re-export trade), indicating the quantity and price of each food commodities sold every week;
- k) An authorized officer may at all reasonable times enter any premises or place where any trade is carried out and should be given maximum cooperation to carry out their lawful duties;
- l) All relevant information, records and documents required by an authorized official when carrying out their lawful duties should be disclosed and produced. It is an offence to refuse or withhold information, records or documents;
- m) The applicant, if importing any of the essential commodities, has an obligation to ensure that the Customs declaration represents the full and true disclosure of the transaction and pay Customs and Excise duties when they are due;
- n) The applicant is allowed to import, distribute or retail essential food commodities within the period specified in the licence;

4. Administration of the Act

This Act shall be administered by The Gambia Competition and Consumer Protection Commission.

5. Application for import, distribution or retail Licence

(1) An Applicant for the import, distribution or retail licence of essential commodities must

- (a) Complete an application form contained in [Annex 1](#) and
- (b) Lodge that application with the Commission together with the documents specified in section [7\(1\)](#)

6. Obligation to acquire import or Major Distribution/retail license

A person shall acquire from the Commission an import license or major retail license before dealing in essential commodities.

7. Acceptance of import/Distribution /Retail Licence Application

(1) Before accepting an import licence application, the Commission must be satisfied that:

- (a) The applicant is the owner of the business
- (b) The application form has been completed in full, and
- (c) All the documents specified in **Section 8 (1)** have been submitted with the application form.

8. Documents to be submitted in support of importation/ major distributor/retail licence application

(1) An application for an importation licence must submit:

- (a) A certify copy of the applicant's identity document if the applicant is a natural person and, in the case of a non-Gambian citizen, a permanent resident permit or employment permit and proof of residence in The Gambia, or proof of domicile in The Gambia, as the case may be,
- (b) A certified copy of the business entity's registration and certificate of incorporation documents if the applicant is a corporate entity or a trust;
- (c) Copy of TIN Certificate of the registered business;
- (d) Photograph of the business owner(s);
- (e) A Trade Licence

9. Evaluation of an importation licence application

(1) In evaluating an application for an importation licence, the Commission must, verify that-

- (a) The information and the documents submitted with the application form are true and correct.

10. Proof of payment of levies

An applicant for an importation licence in respect of whom **Section 4(1)** is applicable, must provide proof of payment of any levies due.

11. Procedure for issuing importation licence

The Minister must, if satisfied that an application for an importation licence meets the requirements of the Acts and these regulations-

- (a) Inform the applicant within **30 days** that the application has been successful;

12. Particulars to be included in importation licence

An importation licence must include-

- (a) The name of the licence
- (b) The licence number
- (c) The name of the licensee; the identity number or company registration number of the licensee;
- (d) The business address of the licensee
- (e) The date of issue of the licensee
- (f) The conditions of the licence
- (g) Authorised Stamp on the license and
- (h) the Minister's signature

13. General condition with regard to importation licence

- (1) A licensed importer, distributor or major retailer of essential commodities must remain a going concern
- (2) An importation, distribution or major retailing licence, or a certified copy therefore, must be prominently displayed at the place of business, where any person entering the place of business may read it, and
- (3) Any license issued in terms of these regulations-
 - (a) remains the property of the government of the Gambia;
 - (b) may be cancelled or suspended at any time subject to section **18**
 - (c) may not be tempered with or defaced in any manner;
 - (d) is not transferable unless a written application is filed with the Commissioner

14. Amendment of importation licence

- (1) A licensed importer, distributor or major retailer of essential commodities may apply, in writing, to the Minister for a licence to be amended by
 - (a) specifying the amendment sought; and
 - (b) providing reasons for seeking such an amendment

- (2) the Minister must consider the request envisaged in paragraph (1) and may issue an amended licence: provide that-
 - (a) the amended will not affect any rights, debts, liabilities or obligations of the licensee, nor render defective any legal proceedings by or against the licensee, and any legal proceedings that could have been continued or commenced by or against the licenced importer prior to such change; and

15. Persons to whom a licence shall not be granted

A licence shall not be granted to-

- (1) A person who
 - (a) is under the age of eighteen years;
 - (b) is an discharged bankrupt, having been adjudged or otherwise declared bankrupt under any written law, or enters into agreement or scheme of composition with his or her creditors, or takes advantage of any law for the benefit of his or her debtors; or
 - (c) Is a tax defaulter;
- (2) A person
 - (a) Which is in liquidation other than a liquidation which forms part of a scheme for the reconstruction or amalgamation of the holder;
 - (b) In respect of which an order has been made by a court of competent jurisdiction for the winding up or dissolution;
 - (c) Which has made a composition or arrangement with its creditors; or
 - (d) Who is a tax defaulter.

16. Application for duplicate importation license

- (1) When an importation, distribution or major retailing licence has been lost, damaged or destroyed the licenced importer must apply to the Minister for a duplicate therefore.
- (2) An application envisaged in paragraph (1) must be accompanied by-
 - (a) An affidavit stating the reason or reasons for the application;
 - (b) A certified copy of the business entity's registration documents, if the applicant is a corporate entity, trust or association;
 - (c) The licence number of the licence that has been lost damaged or destroyed.

17. Surrender of licence

A licenced importer, distributor or major retailer may, at any time, by written notice surrender a licence to the Commissioner, notwithstanding this does not exonerated the licenced importer from any liability incurred during the period of its activities.

18. Suspension and cancellation of licence

(1) If a licenced importer, distributor or major retailer fails to comply with any provision of the Act or these Regulations, or any condition of a licence, or contravenes any such provision or condition, the Minister by virtue of section 13(a) and (b) of the act may, notwithstanding any other penalty, which may be imposed under the Act or any other law, and subject to paragraph (2), suspend the licence.

(2) The Minister may not suspend a licence unless-

(a) The licence importer, distributor or major retailer has been informed in writing of the intention to suspend such licence-

(i) setting out the particulars of the alleged failure or contravention; and

(ii) calling upon the licenced importer/distributor/retailer to make the representation to the Minister that may be necessary within 30 days after the date of that notice.

(b) The Minister has considered-

(i) steps taken by the licenced importer to remedy the alleged failure or contravention concerned or to prevent any such failure or contravention from being repeated; and

(ii) any other relevant matter submitted by the way of the representations envisaged in paragraph (a)(ii).

19. Termination of licence

(1) A licence ceases to be valid if-

(a) the licence is surrendered to the Commission;

(b) the licence is cancelled by the Minister in accordance with regulation 17(2); or

(c) the licenced activity is no longer a going concern.

(2) If a licence has ceased to be valid, the licenced importer/distributor/retailer must surrender to the commissioner within 14 days, from the date of receipt of the notification in which the licenced importer is informed that the licence is no longer valid.

20. Refusal to issue licence

If the Minister declines to issue any licence that may be issued under these regulations, the applicant must be informed in writing, with reasons, of that decision.

21. Regulations

(1) The Minister may make such regulations as he or she thinks fit for the more effectual carrying out of the purpose of this Act

(2) Regulations made under sub-section (1) may provide for the designation of officers for the enforcement of this Act.

22. Additional powers of the Minister

(1) The Minister may by order published in the Gazette, declare any goods to be essential commodities for the purpose of this bill.

(2) In making a declaration under sub-section (1), the Minister shall take in to account any relevant treaty or convention ratified by the Gambia.

23. Offences and penalties

(1) A person who fails to comply with section 4, 5, and 6 of this Act or with an order made under section 7 or with any regulation made under this Act commits an offence and is liable on conviction to—

(a) Non-issuance of license or revocations of license; or

(b) a fine of not less than one hundred thousand dalasis and, in default, to imprisonment for not more than one year.

(2) A person who fails to comply with a notice served under section 8(3) or knowingly or recklessly provides information that is false, misleading or incomplete commits an offence, and is liable on conviction—

(a) if an individual, to a fine of not less than one hundred thousand dalasis and, in default, to imprisonment for not more than two years; and

(b) in the case of a body corporate, to a fine of not less than five hundred thousand dalasis.

24. Appeals

Appeals can be made to the Minister within a period of 60 days upon receipt of letter from the Minister in regard to the refusal and new application can be submitted for consideration.

25. False Declaration

The Minister may revoke or amend any decision or the award of any licence that was influenced by a false declaration, including any material nondisclosure, in accordance with section 18(2).

26. Additional Information

- (1) The Minister may request for additional information from an applicant that may be necessary to enable the Minister to make a decision regarding the issuing of a licence.
- (2) The Minister may request additional information from a license that may be necessary for regulatory purposes.

27. Duration of Licence

The License shall be valid for a period of one year and must be renewed annually;

28. Legal or regulatory changes

Where during the terms of validity of a licence, legal or regulatory changes like-

- (a) The issuance of a new technical standards or specifications occur which require changes or adaptations of essential commodities.
- (b) Or equipment of the supply chain, all holders of licenses shall comply with the respective rules within a reasonable transition period established by the order of the Minister, made in consultation with Regulatory Authority, unless the transition period is provided for by the respective law or regulatory change.

29. Renewal of Licence

- (1) A holder of a licence for importation, distribution or retailing of an essential commodity may apply to the Commission for renewal of the licence not later than three months before the date of the expiry of the licence.
- (2) Licence for previous importation, distribution and retailing must be returned.

30. Enforcement - Identity cards for inspectors- Form of Identity Card

OBJECT AND REASONS

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HON.ABDOULIE JOBE

MINISTER OF TRADE, INDUSTRY, REGIONAL INTEGRATION AND EMPLOYMENT

