

Licensing of Produce Brokers Act No.09 of 1979

CHAPTER 126

LICENSING OF PRODUCE BROKERS

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No. 9 of 1979.

AN ACT TO PROVIDE FOR THE REGULATION AND CONTROL OF THE CARRYING ON OF THE BUSINESS OF A PRODUCE BROKER BY THE INTRODUCTION AND OPERATION OF A SYSTEM OF LICENSING, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[9th February, 1979.]

Short title.

1. This Act may be cited as the Licensing of Produce Brokers Act.

Prohibition of
the carrying on
of the business
of a produce
broker without
a licence.

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 (hereafter referred to as the "appointed date"), no person shall carry on business as a produce broker except under the authority of licence issued in that behalf by any appropriate authority under this Act.

(2) No licence shall be issued under this Act to any body corporate which is a company, unless it has been or is formed and registered under the Companies Ordinance*.

(3) (a) No licence shall be issued under this Act to any person who does not comply with the terms and conditions set out in the Schedule hereto.

(b) Where a licence has been issued to any person under this Act and such person acts in violation of any of the terms and conditions set out in the Schedule hereto, the appropriate authority may by order, suspend for any period specified in such order, or cancel, such licence.

(4) No licence shall be issued by any appropriate authority to any person under this Act, except upon the payment by such person to such authority of the prescribed fee.

(5) The Minister may, from time to time, by Order published in the Gazette, appoint any person, by name or by office, to be an appropriate authority for the purposes of this Act.

(6) Regulations may be made under this Act for and in respect of all or any of the following matters :-

(u) subject to the provisions of this Act the circumstances in which licences may be granted or refused;

(b) the person to whom and the period for which licences may be granted;

(c) the mode and manner in which applications for licences may be made and disposed of;

(d) the furnishing of all such statements and declarations relating to the business carried on by a produce broker as may be necessary for ensuring that the provisions of this Act or any regulations made thereunder are complied with;

(e) the standards to be observed by produce brokers and the prohibition of acts or omissions in contravention of such standards.

3. (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.

Licences not transferable.

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

* Repealed and replaced by the Companies Act, No. 17 of 1982.

No compensation for any loss incurred by reason of a licence not being issued to any person who prior to the appointed date carried on business as a produce broker.

Suspension or cancellation of licences.

4. No person who, prior to the appointed date, carried on business as a produce broker shall be entitled to compensation for any loss incurred by him, whether directly or indirectly or by way of business or otherwise, by reason of a licence to carry on such business after the appointed date not being issued to him under this Act.

5. (1) If the appropriate authority by whom a licence has been issued to any person to carry on business as a produce broker is of opinion that such person is unfit to carry on such business for the reason that-

- (a) he is an undischarged bankrupt or is insolvent ; or
- (b) he is convicted of any offence involving moral turpitude ; or
- (c) he is, under any law in force, found or declared to be of unsound mind ; or

8 (d) he persists in disobeying the instructions given by the appropriate authority,

he may by order, suspend for any period specified in such order, or cancel, such licence.

(2) No order under subsection (1) shall be made against a person carrying on business as a produce broker 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 person carrying on business as a produce broker against whom an order is made under subsection (1) may prefer an appeal in writing to the Minister before the expiry of ten days after the date on which such order is communicated to that person by or on behalf of the appropriate authority by whom such order was made, and the Minister may, in dealing with any appeal preferred to him, affirm, vary or annul the order against which the appeal has been preferred.

(4) An order under subsection (1) suspending or cancelling a licence issued to a person to carry on business as a produce broker shall come into force on the date on which such order is communicated to that person by or on behalf of the appropriate authority by whom such order was made, and shall continue to be in force notwithstanding that an appeal against such order has been preferred to the Minister.

(5) Any notice required to be given, or any order required to be communicated under the preceding provisions of this section, to any person shall be deemed to have been served or communicated on or to him 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.

(6) The decision of the Minister upon an appeal shall be final and conclusive for all purposes whatsoever, and shall not be called in question in any court or tribunal, whether by way of appeal or writ, or in any other manner whatsoever.

6. Any appropriate authority may issue Power to issue to any person carrying on business as a produce broker, any such directions as he may think necessary for the purpose of making such person comply with the provisions of this Act or any regulations made thereunder, and the person to whom any such directions are issued shall comply with any such directions within such time as shall be specified therein.

7. Any appropriate authority by whom Power of entry and inspection. a licence may be issued under this Act, or any prescribed officer, may-

(u) for the purpose of ascertaining whether the provisions of this Act or any regulations made thereunder are being complied with, enter and inspect at all reasonable hours of the day or night the premises in which the business of a produce broker is carried on ; and

(b) inspect, and take copies of, any records required by or under this Act to be kept in respect of the business of a produce broker and of any other records relating to such business.

Maintenance
of records.

8. Every person carrying on business as a produce broker shall maintain such records as may be prescribed.

Regulations.

9. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of any matter required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made.

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder. Notification of the date on which a regulation is deemed to be rescinded shall be published in the Gazette.

Offences.

10. Any person who acts in contravention of any provision of this Act or any regulations made thereunder, or furnishes any return, written information or written explanation containing any particulars which to his knowledge are false or incorrect, shall be guilty of an offence under this Act.

Penalties.

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

12. 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 person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of that body corporate ; or

(b) if that body of persons is a firm, every person who at the time of the commission of the offence was a partner of that firm,

shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and in all the circumstances.

13. Where any person carrying on business as a produce broker is convicted by a court of any offence under this Act and no appeal against the conviction is preferred, or the conviction is confirmed in appeal, any appropriate authority may without notice, cancel his licence to carry on such business. The decision of the appropriate authority to cancel such licence under this section shall be final and conclusive, and shall not be called in question in any court or tribunal, whether by way of appeal or writ, or in any other manner whatsoever.

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

“ appropriate authority ” in any context relating to a licence, means any person who, by name or by office, has been appointed to be such authority by the Minister by Order published in the Gazette under subsection (4) of section 2 ;

“ licence ” means a licence to carry on business as a produce broker issued by any appropriate authority to any person under this Act ;

“ prescribed ” means prescribed by regulations made under this Act ; and

Liability of certain persons in respect of offences committed by bodies corporate or unincorporate.

Power to cancel licences on conviction of produce brokers.

Interpretation.

"produce broker" means any individual, firm or company engaged in the business of—

(a) broking in tea, rubber or coconut produce ; or

(b) actively participating in the marketing of tea, rubber or coconut produce through the existing auction system and the systems outside the auction system.

[Section 2.]

SCHEDULE

TERMS AND CONDITIONS OF A LICENCE ISSUED UNDER THIS ACT

1. The produce broker should be registered as a broker under the Auctioneers and Brokers Ordinance.
 2. The produce broker should show financial stability to conduct the trade of produce broking.
 3. Proof of sufficient warehousing and storage space should be produced by the produce broker.
 4. Details of the premises on which produce broking is to be carried on should be furnished by the produce broker.
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