

THE DUTY-FREE SHOPPING SYSTEM ACT
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DUTY-FREE SHOPPING SYSTEM

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SCHEDULE

THE DUTY-FREE SHOPPING SYSTEM ACT

Acts
46 of 1974,
12 of 1985
Sch.,
28 of 2010.

[3rd December, 1974.]

Preliminary

1. This Act may be cited as the Duty-Free Shopping System Act. Short title.

2.—(1) In this Act—

Interpreta-
tion.

“approved goods” means any class or description of goods specified in the Schedule as approve goods;

Schedule.

“Commissioner” means the Commissioner of Customs;

12/1985
Sch.

“consumables” means—

28/2010
S. 3(b).

(a) any spirits, wine or fermented, distilled or spirituous liquor;

(b) any cigars, cigarettes or tobacco; and

(c) any luxury chocolates,

specified in the Schedule as consumables;

“diplomats” means persons entitled to immunities or privileges under section 10 of the Diplomatic Immunities and Privileges Act;

“duty-free shopping system” means the system permitted by this Act for the sale of approved goods and consumables to arriving passengers, departing passengers or diplomats, free of customs duty, excise duty, general consumption tax and special consumption tax;

28/2010
S. 3(c).

“licensed duty-free shop” means any premises, or area in any premises, in relation to which a licence issued under the provisions of section 5 is in force;

28/2010
S. 2(b).

“Minister” means the Minister responsible for finance;

28/2010
S. 3(c).

“passenger” includes a crew member.

(2) The Minister may, from time to time, by order amend the Schedule.

Duty-free
shop
operator’s
licence.
12/1985
Sch.
28/2010
S. 2(b).

3.—(1) The Commissioner may, on application made in the prescribed manner and on payment of the prescribed fee, grant to any person who desires to operate on his own account a licensed duty-free shop a licence (hereinafter referred to as a “duty-free shop operator’s licence”) so to do.

12/1985
Sch.

(2) Any licence granted under this section may be granted on such terms and subject to such conditions as may be prescribed or as the Commissioner may in any case stipulate.

(3) Any licence granted under this section shall, unless previously cancelled under this Act, continue in force from the date of issue until the next succeeding 31st day of March and may be renewed from year to year, so, however, that a licence issued or renewed during the month of March in any year shall, unless cancelled as aforesaid, continue in force until the 31st day of March of the next succeeding year.

Duty-free
shop opera-
tor’s agency
permit.
12/1985
Sch.
28/2010
S. 2(b).

4.—(1) The Commissioner may, on application made in the prescribed manner and on payment of the prescribed fee issue to any person who (not being the holder of, or an applicant for, a duty-free shop operator’s licence) is for the time being accredited in writing by the holder of, or an applicant for, a duty-free shop operator’s licence as an agent for the purposes of the duty-free shopping system, a permit (hereinafter referred to as a “duty-free shop operator’s agency permit”) to operate a duty-free shop as agent for the duty-free shop operator by whom he is accredited.

(2) Every person accrediting an agent for the purposes of subsection (1) shall keep a register showing every person who is for the time being accredited for this purpose, and shall not grant any such accreditation without making the appropriate entry in this register; and if any person contravenes the requirements of this subsection he shall, in respect of each contravention, incur a penalty of one hundred thousand dollars.

28/2010
S. 4(b).

(3) Any permit issued under this section may be issued subject to such terms and conditions as may be prescribed or as the Commissioner may in any case stipulate.

12/1985
Sch.

(4) Any permit issued under this section shall unless previously cancelled under this Act, continue in force from the date of issue until the next succeeding 31st day of March, and may be renewed from year to year, so, however, that any permit issued or renewed during the month of March in any year shall, unless cancelled as aforesaid, continue in force until the 31st day of March of the next succeeding year.

5.—(1) The Commissioner may, on application made in the prescribed manner and on payment of the prescribed fee, grant to any person who is—

Duty-free
shop
licence.
12/1985
Sch.

(a) the holder of, or an applicant for, a duty-free shop operator's licence; or

28/2010
S. 2(b).

(b) the holder of, or an applicant for, a duty-free shop operator's agency permit,

28/2010
S. 2(b).

a licence (hereinafter referred to as a "duty-free shop licence") in relation to any premises specified in the application, authorizing the use of such premises or any area in such premises as a licensed duty-free shop where approved goods or consumables may be sold under the duty-free shopping system.

28/2010
S. 2(b).

(2) Any licence granted under this section may be granted subject to such terms and conditions as may be prescribed or as the Commissioner may in any case stipulate.

12/1985
Sch.

(3) Any licence granted under this section shall, unless previously cancelled under this Act, continue in force from the date of issue until the next succeeding 31st day of March, and may be renewed from year to year, so, however, that any licence issued or renewed during the month of March in any year shall, unless cancelled as aforesaid, continue in force until the 31st day of March of the next succeeding year.

6. Every application for the renewal of a licence or a permit under this Act shall, unless the Commissioner otherwise permits, be delivered to the Commissioner not later than twenty-one days before the expiry of that licence or permit, as the case may be.

Time limit
for applica-
tion for
renewal.
12/1985
Sch.

7.—(1) Subject to the right of appeal conferred by section 9 of this Act, the Commissioner may, in his discretion, refuse to grant, or to renew, any licence or permit under this Act, and shall so refuse if he is not satisfied that the applicant is, or satisfactory evidence is produced that the applicant is not, a fit and proper person to be the holder of a licence or permit, or where it appears that the applicant—

Refusal to
grant or
renew
licence or
permit.
12/1985
Sch.

(a) not being a body corporate, is under eighteen years of age; or

- (b) does not have sufficient financial resources to enable him to purchase, lease or own the premises to be used as a duty-free shop, and to have suitable furniture, equipment, personnel or available goods therefor; 28/2010 S. 5(b).
- (c) is not resident in Jamaica, or was not so resident throughout the six months immediately preceding the date of application; or
- (d) being a body corporate is not incorporated in Jamaica; or
- (e) has within the immediately preceding twelve months been refused the grant or renewal of a duty-free shop operator's licence or a duty-free shop operator's agency permit; or 28/2010 S. 2(b).
- (f) has been the holder of a duty-free shop operator's licence or a duty-free shop operator's agency permit which has been cancelled within the immediately preceding twelve months; or 28/2010 S. 2(b).
- (g) has been found to be knowingly concerned with evading or attempting to evade the provisions of this Act or of the Customs Act relating to the importation or exportation of any goods.

(2) Where the Commissioner refuses an application for the grant or renewal of a licence or a permit, he shall refund to the applicant any fee paid in respect of such application. 12/1985 Sch.

8.—(1) The Commissioner shall cancel a licence or a permit under this Act if— Cancellation of licence or permit.

12/1985
Sch.

(a) the holder of the licence or the permit is convicted of any offence involving fraud or dishonesty; or

(b) the holder of the licence or the permit is found to be knowingly concerned with evading or attempting to evade the provisions of this Act or of the Customs Act relating to the importation or exportation of any goods, in connection with the duty-free shopping system; or

28/2010
S. 2(b).

(c) after due consideration and determination in the prescribed manner of any application made in the prescribed form—

(i) by any person; or

(ii) by any organization or association recognized by the Commissioner as representing operators of duty-free shops,

12/1985
Sch.

requesting that the licence or permit be cancelled, he is satisfied that the holder is no longer a fit and proper person to hold such licence or permit.

28/2010
S. 6.

(2) Before cancelling a licence or permit under this section the Commissioner shall by notice in writing—

(a) notify the holder of the licence or permit, as the case may be, of his intention to cancel the licence or permit at the end of the period of thirty days from the date of service of the notice; and

(b) state therein the reasons for the cancellation.

Right of
appeal.

9.—(1) In any case where the Commissioner cancels a licence under paragraph (c) of section 8, or refuses to grant or to renew any licence or permit under this Act, the holder of or the applicant as the case may be for, the licence or permit may, at any time within sixty days after the Commissioner's decision

12/1985
Sch.

has been communicated to him, and on payment of such fee as may be prescribed, appeal in the prescribed manner to the Minister.

(2) On any such appeal the Minister may—

- (a) confirm the cancellation or refusal; or
- (b) on payment by the appellant of the prescribed fee, restore, grant or renew the permit or licence, as the case may be,

and the decision of the Minister on any such appeal shall be final.

10. The Commissioner may require any applicant, as a condition precedent to the grant of a licence under this Act, to furnish a bond—

Bond may
be required.
12/1985
Sch.

- (a) in such sum; and
- (b) with such number of sureties approved by the Commissioner,

as the Commissioner may from time to time specify in each case, conditioned on due payment of all duties and the due observance of the provisions of this Act and of any regulations made thereunder.

12/1985
Sch.

11. [*Repealed by Act 28 of 2010, S. 7.*]

12.—(1) Any holder of a duty-free shop licence may apply to the Commissioner to register centres where approved goods and consumables may be displayed, subject to the prescribed conditions, for purposes other than sale.

Display
centres.
12/1985
Sch.
28/2010
S. 2(b).

(2) Any person who sells approved goods or consumables from a display centre or fails to comply with any prescribed conditions applicable to display centres shall be guilty of an offence and shall incur a penalty of one hundred thousand dollars.

28/2010
S. 8.

Returns and
records.
28/2010
S. 9.

13.—(1) Every holder of a duty-free shop licence shall—

- (a) make such returns at such times;
- (b) keep such records in such form; and
- (c) provide such records and information,

as may be prescribed or as may be required by the Commissioner.

(2) The Commissioner may—

- (a) if he thinks fit, vary the time for making any returns; and
- (b) review and audit the records at such times as he thinks necessary.

Warehousing

14.—(1) Every licensed duty-free shop shall be deemed to be a private warehouse or a private excise warehouse, as the case may be, for the purposes of the *Customs Act*, the *Excise Duty Act* and the *General Consumption Tax Act*.

Duty-free
shop as pri-
vate ware-
house.
28/2010
S. 2(b).
28/2010
S. 10(a).

28/2010
S. 10(b).

(2) The Commissioner may permit any approved goods or any consumables which, but for the provisions of this Act, would be liable to customs duty, excise duty, general consumption tax or special consumption tax to be removed from any

warehouse, or customs area, or private excise warehouse or factory licensed under the *Excise Duty Act*, without payment of such duty or tax and deposited in a licensed duty-free shop, subject to the prescribed conditions, for purposes of import or export under the duty-free shopping system.

(3) No provisions of this section shall confer on any approved goods or consumables any exemption from customs examination either prior to deposit in, or after delivery from, a licensed duty-free shop.

15.—(1) The Commissioner may issue any directions he considers necessary for the better regulation and control of the operations of a licensed duty-free shop.

Commissioner may issue directions.
28/2010
S. 2(b).
12/1985
Sch.
28/2010
S. 2(b).

(2) The Commissioner may require a written explanation from any person in charge of a licensed duty-free shop, or his servant employed in such shop, or his agent, in order to enquire into any matter affecting the administration and control of such shop.

16. The provisions of Part IV of the Customs Act shall apply *mutatis mutandis* to the warehousing of goods under the provisions of this Act.

Application of Customs Act.

Duty-Free Shopping System

17. Subject to the provisions of this Act and of any regulations made thereunder, any approved goods or consumables warehoused in a licensed duty-free shop may be sold free of any customs duty, excise duty, general consumption tax or special consumption tax to which such goods would, but for the provisions of this Act, be liable.

Sale of approved goods and consumables.
28/2010
S. 2(b).
28/2010
S. 11.

18.—(1) Approved goods or consumables may be purchased from a licensed duty-free shop by any person—

Conditions applicable to the sale of approved goods and consumables.
28/2010
S. 12

(a) who is arriving in Jamaica in or on any aircraft or ship at the port of entry, and before clearing Customs;

- (b) who is departing from Jamaica and who can supply proof that he is, at or about the time of the purchase, departing from Jamaica; or
- (c) who is a diplomat.

(2) Any approved goods or consumables purchased by a diplomat or other person under subsection (1) shall be subject to any prescribed requirements in respect of packaging or otherwise.

Offences and Penalties

19.—(1) Any person who, not being the holder of a duty-free shop operator's licence or a duty-free shop operator's agency permit under this Act, with intent to deceive, displays any advertisement indicating in any manner that—

- (a) any premises used by him is a licensed duty-free shop; or
- (b) approved goods or consumables may be obtained from him or through him under the duty-free shopping system; or
- (c) he is authorized to sell goods free of customs duty, excise duty, general consumption tax or special consumption tax,

shall be guilty of an offence and shall incur a penalty of five hundred thousand dollars.

(2) In this section, "advertisement" shall have the meaning assigned to it in section 2 of the Advertisements Regulation Act.

20. Any person who, without reasonable excuse, fails to carry out any direction given in writing by the Commissioner relating to the operation of a duty-free shop shall be guilty of an offence and shall incur a penalty of two hundred and fifty thousand dollars.

21. Any person who, without reasonable excuse, infringes any term or condition subject to which his licence or permit was granted, shall be guilty of an offence and shall incur a penalty of two hundred and fifty thousand dollars.

False advertisement.
28/2010
S. 2(b).

28/2010
S. 2(b).

28/2010
S. 13(a).

28/2010
S. 13(b).

Failure to carry out directions.
12/1985
Sch.
28/2010
S. 2(b).
28/2010
S. 14.

Infringement of conditions.

28/2010
S. 14.

22. Any person who, when required by the Commissioner to give a written explanation of any matter relating to the operation of a place used as a private warehouse under this Act, without reasonable cause, refuses or fails to give a satisfactory written explanation, or to give any explanation, shall be guilty of an offence and shall incur a penalty of one hundred thousand dollars.

Refusal to give explanation.
12/1985 Sch.

28/2010 S. 15.

23. Any person who, in any matter relating to the duty-free shopping system or to the operation of any duty-free shop, with intent to deceive—

False declaration, etc.
28/2010 S. 2(b).

- (a) makes, or causes to be made, any false declaration, whether oral or written; or
- (b) uses, or causes to be used, any false certificate; or
- (c) makes, or causes to be made, any alteration or falsification in any document after that document has been officially issued,

shall be guilty of an offence and shall incur a penalty of five hundred thousand dollars.

28/2010 S. 16.

24. Any person who, knowingly and with intent to defraud the Government of Jamaica of revenue—

Evading provisions relating to approved goods and consumables.

- (a) acquires possession of; or
- (b) carries, removes, deposits, conceals or harbours; or
- (c) deals in any manner, otherwise than in accordance with the provisions of this Act or of any regulations made thereunder, with

any approved goods or any consumables on which customs or excise duty, general consumption tax or special consumption tax due thereon has not been paid, shall be guilty of an offence and shall incur a penalty for each such offence of five hundred thousand dollars or treble the value of the goods, whichever is greater; and in addition, all goods in respect of which any such offence is committed shall be forfeited.

28/2010 S. 17(a).

28/2010 S. 17(b).

25. Any person who without reasonable excuse fails or refuses—

Failure to make returns.

- (a) to make such returns at such times; or

(b) to keep such records in such form; or

(c) to embody in any return any such information,

12/1985
Sch.
28/2010
S. 18.

as may be prescribed or as may be required by the Commissioner shall be guilty of an offence and shall incur a penalty of one hundred thousand dollars.

Penalty re-
coverable
from bond.
12/1985
Sch.

26. Without prejudice to any other form of recovery, any penalty incurred under the provisions of this Act may be recovered by the Commissioner by the application, in whole or in part, of any bond furnished pursuant to section 10.

Prosecutions
for offences.

27.—(1) Any offences under this Act may be prosecuted, and any penalty incurred under, or forfeiture imposed by this Act may be sued for, prosecuted and recovered summarily in a Resident Magistrate's Court, and any sum of money payable under this Act may be recovered and enforced in a summary manner in a Resident Magistrate's Court on the complaint of any officer.

(2) In this section "officer" has the meaning assigned to it by section 2 of the Customs Act.

General

Regulations.

28.—(1) The Minister may make regulations generally for the better carrying out of the purposes and provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, may make regulations—

- (a) prescribing the form and manner in which applications shall be made for any licence or permit which may be granted under this Act, and the forms of such permits or licences;
- (b) prescribing any fees to be paid under this Act;
- (c) prescribing the nature of the notices, emblems or other instruments to be displayed in tourist shops;
- (d) prescribing the method of packaging of approved goods and consumables;

(e) prescribing any other matter or anything which may be, or is required to be, prescribed.

(2) Notwithstanding anything contained in section 29 of the Interpretation Act, any regulations made under this Act may provide in respect of a breach of any of the provisions thereof that the offender shall be liable to a fine not exceeding three hundred thousand dollars or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

28/2010
S. 19.

29. The Minister may from time to time by order, subject to affirmative resolution, increase any monetary penalty imposed by this Act.

Amendment
of penalties
by Minister,
subject to
resolution.
28/2010
S. 20.

SCHEDULE

(Section 2)

Approved Goods

1. Binoculars;
2. Electric Calculators;
3. Photographic cameras with accessories;
4. Chinaware—bone and porcelain;
5. Clocks;
6. Cosmetics;
7. Cutlery—sterling silver and stainless steel;
8. Crystalware;
9. Earthenware;
10. Figurines—bronze, ivory or quartz;
11. Figurines—china or porcelain;
12. Hi-fi components;
13. Jewellery and articles consisting of or incorporating pearls;
14. Leatherwear;
15. Mechanical lighters for cigars, cigarettes and pipes;
16. Perfumery and perfumed soaps;
17. Pipes, cigar and cigarette holders;
18. Projectors;
19. Portable radios;
20. Record changers or record players;
21. Electric shavers;
22. Sweaters and cardigans, pull-overs or similar knitted outerwear of angora, mohair, cashmere or similar mixtures of wool;
23. Silverware—sterling silverplate, sheffield plated and antique reproductions, Siamese, Portuguese and Indian sterling silver;
24. Sunglasses or accessories therefor;
25. Table linen—Madeira, Irish, embroidered, hand-painted, cutwork;
26. Tape recorders;
27. Telescopes;
28. Toilet lotion or toilet waters;
29. Watches.
30. Loose gem stones (precious and semiprecious, cut and polished);

28/2010
S. 21(b).

28/2010
S. 21(c).

28/2010
S. 21(e).

28/2010
S. 21(f).

SCHEDULE, *contd.*

(Section 2)

Approved Goods, contd.

31. Writing instruments, including mechanical pencils;
32. Watch straps, watch bracelets and other watch accessories;
33. Video cameras;
34. Pocket knives;
35. Children's clothing;
36. Designer clothing;

Consumables

1. Cigarettes—locally manufactured or imported in containers of not less than 200 units each;
2. Cigars—Jamaican cigars in boxes of not less than 25;
3. Tobacco;
4. Spirits, liqueurs and wines (except miniatures) imported with minimum contents 11 ounces per bottle;
5. Spirits or liqueurs (miniatures)—whether assorted or not, locally manufactured or imported, in sealed containers of not less than six bottles; each bottle containing not less than one ounce per bottle;
6. Spirits, liqueurs or wines—locally manufactured with minimum contents 11 ounces per bottle.
7. Luxury chocolates.

28/2010
S. 21(g).