

CHAPTER 73

THE INDUSTRIAL LICENSING

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CHAPTER 73**THE INDUSTRIAL LICENSING ACT**

Commencement: 1 August, 1969

An Act to control the establishment of industries and for related**matters. 1. Interpretation**

In this Act, unless the context otherwise requires—

“Board” means the Industrial Licensing Board established under section 2;

“cottage industry” means, in relation to the manufacture of any scheduled article, any single unit of industry in which

- (a) no more than ten workers are employed;
- (b) no prime mover is utilised;

“currency point” has the value assigned to it in Schedule 1 to this Act;

“functions” includes powers and duties;

“licence” means a licence issued under this Act;

“manufacture” means to subject any physical matter to any process—

- (a) which materially changes the matter in substance, character or appearance; and
- (b) which results in the matter, after being so processed, being a scheduled article, whether or not it was such an article before the process;

“Minister” means the Minister to whom functions under this Act are assigned;

“Secretary” means the Secretary to the Industrial Licensing Board;

“scheduled article” means any article falling within any class of product specified in Schedule 2 to this Act.

2. Establishment of Industrial Licensing Board

(1) There is established a board to be known as the Industrial Licensing Board.

(2) The Board shall consist of a Chairperson, a public officer nominated by the Minister responsible for foreign affairs and not less than two nor more than four other members, all of whom shall be appointed by the Minister.

(3) A member of the Board shall hold office for a term of two years but shall be eligible for re-appointment.

(4) A member of the Board may resign his or her office by giving notice in writing addressed to the Minister, and as from the date specified in the notice, or, if no date is specified, from the date of the receipt of the notice, that person shall cease to be a member of the Board.

(5) The Minister may remove any member of the Board from office for inability to perform the functions of his or her office or for any other sufficient cause.

3. Secretary to Board

(1) The Minister shall appoint a public officer to be the Secretary to the Board, but the Secretary shall not be a member of the Board.

(2) All applications and other documents which are intended to be considered by the Board shall be lodged with the Secretary, and all acts and decisions of the Board shall be signified through the Secretary.

(3) The Secretary shall give effect to any orders given to him or her by the Board in exercise of its functions under this Act.

4. Meetings of Board

(1) The Board shall meet for the discharge of its functions under this Act at such place and time as the Chairperson may appoint.

(2) The Chairperson shall preside at all meetings of the Board; and where the Chairperson is absent from any meeting, a member of the Board nominated by the Chairperson, or if no member is nominated, such member of the Board as the members present shall appoint, shall preside.

(3) The quorum at any meeting of the Board shall be three.

(4) Questions proposed at a meeting of the Board shall be determined by a simple majority of the members of the Board present and voting; and in the case of an equality of votes, the person presiding at the meeting shall have a casting vote.

(5) Nothing done by the Board shall be treated as invalid by reason of a deficiency in the number of its members, provided any such action is subsequently ratified at a meeting of the Board by a majority of the members of the Board.

5. Licence required

Subject to this Act, no person shall—

- (a) manufacture for sale any scheduled article; or
- (b) erect, establish or operate any factory for the manufacture for sale of any such scheduled article,

unless the person is in possession of a licence granted for that purpose by the Board under this Act.

6. Grant of licence

(1) The Board may, on application made to it in accordance with regulations made for that purpose, and on payment of such fee as may be prescribed, grant a licence to an applicant, having regard to—

- (a) the capital and technical skill available to the applicant;
- (b) the siting of any factory in relation to the availability of power, fuel, labour, transport, raw materials, land and water;
- (c) the potential production of and the potential demand for, the articles insofar as, in the opinion of the Board, the production and demand are likely to affect the undertaking in respect of which application is made;
- (d) the interests and conditions of service of the labour employed or to be employed by the applicant;
- (e) the interests of the potential consumers of the scheduled article; and
- (f) the general promotion and orderly development of industries and prevention of uneconomic competition.

(2) A licence granted by the Board shall—

- (a) specify the scheduled article in respect of which the licence is granted; and
- (b) be subject to such conditions as the Board may think fit to impose.

(3) The Board may, on application made to it by the holder of a licence, vary or transfer the licence.

(4) When the Board is dealing with an application for the transfer of a licence, it shall have regard to the matters set out in subsection (1).

(5) The Board may attach conditions to the licence being transferred or vary the existing conditions.

7. Publication of applications

The Secretary shall, by way of a notice in the *Gazette*, and in a newspaper circulating in the locality publish every application for a new licence.

8. Objections

(1) Any person who is likely to be adversely affected by the grant of a licence under this Act may lodge an objection with the Secretary not later than thirty days from the date of publication of the application.

(2) An objection lodged with the Secretary under subsection (1) shall be in writing and shall set out the grounds upon which the objector claims that the objector will be adversely affected by the grant of the licence.

(3) A copy of any objection lodged with the Secretary under subsection (1) shall be served by registered post by the objector on the applicant, and the objection itself shall be certified by the objector accordingly.

9. Inquiry

(1) The Board shall, as soon as practicable after the expiration of thirty days next following the date of publication of the application, meet for the purpose of inquiring into any application made under this Act.

(2) The Secretary shall notify, in writing, the applicant and the objector, if any, of the date, time and place of the Board's inquiry into the application.

(3) At an inquiry held under subsection (1) the applicant and the objector shall be entitled to be present or to be represented, and to be heard.

(4) The Board may at any stage of an inquiry adjourn the inquiry for the purpose of obtaining further evidence or information.

10. Refund of fee

Where the Board refuses to grant a licence, any fee paid by the applicant under section 6 shall be refunded to the applicant.

11. Revocation of licence

(1) Where the Board is satisfied that the holder of a licence under this Act has failed—

- (a) to manufacture for sale any of the scheduled articles specified in the licence or to operate any factory for the manufacture for sale of the specified scheduled articles within a reasonable time since the licence was granted;
 - (b) to maintain a minimum level of production of such specified scheduled articles; or
 - (c) to comply with any conditions attached to the licence,
- it may revoke or vary the terms or conditions of the licence or make any other order including the variation of the terms or conditions of the licence.

(2) Before the Board varies or revokes a licence under this section, it shall by notice in writing call upon the holder of a licence to show cause why the licence should not be varied or revoked within thirty days from the date of the notice.

(3) Where the Board varies or revokes a licence under this section, it shall inform, in writing, the holder of the licence of the reason why the licence has been revoked.

12. Appeals

(1) A person aggrieved by the refusal of the Board to grant a licence or by the decision of the Board to vary or revoke a licence under this Act may appeal in writing to the Minister whose decision shall be final.

(2) An appeal under this section shall be lodged within thirty days from the date on which the applicant or holder of a licence is informed of the refusal to grant a licence or the decision to vary or revoke a licence.

13. Regulations

The Minister may, by statutory instrument, in consultation with the Board, make regulations for all or any of the following—

- (a) prescribing the form and procedure of application for a licence;
- (b) prescribing the fees to be charged for a licence;
- (c) prescribing any other matter to be prescribed under this Act; and
- (d) for better carrying into effect the objects and purposes of this Act.

14. Offences and penalties

Any person who—

- (a) contravenes section 5;
- (b) fails to comply with any of the conditions attached to the licence; or
- (c) knowingly gives to the Board—
 - (i) false information during an inquiry in order to obtain a licence; or
 - (ii) a false certificate under section 8,

commits an offence and is liable, on conviction, to a fine not exceeding forty-eight currency points for each day the contravention, failure or commission of the offence continues or to imprisonment for a term not exceeding two years.

15. Non-application of Act

This Act shall not apply to a cottage industry in respect of any scheduled article.

16. Power to amend Schedules

(1) The Minister responsible for finance may, by statutory instrument, with the approval of Cabinet, amend Schedule 1 to this Act.

(2) The Minister may, by statutory instrument, amend Schedule 2 to this Act.

SCHEDULE**S Schedule 1**

Sections 1, 16(1)

Currency Point

A currency point is equivalent to twenty thousand shillings.

Schedule 2

Sections 1, 16(2)

Scheduled Articles

1. Pharmaceutical products
2. Fertilisers
3. Perfumery, cosmetics and toilet preparations
4. Soap
5. Photographic and cinematographic goods
6. Travel goods (including suitcases, travelling bags, shopping bags, handbags, briefcases) made of leather or of composition leather, of vulcanised fibre, of artificial plastic sheeting, of paperboard or of textile fabric
7. Paper and paperboard in rolls or in sheets
8. Knitted and crocheted goods
9. Articles of apparel and clothing accessories of textile fabric, other than knitted or crocheted goods
10. Sanitary towels
11. Footwear
12. Furniture (including chairs, sofas, tables and beds)
13. Bedding, mattresses, mattress supports and cushions
14. Toys and games
15. Buttons and button moulds
16. Fountain pens and ball-point pens
17. Pencils
18. Radio and television receivers; parts and accessories thereof
19. Canned beef
20. Milled rice
21. Meal and flour of wheat
22. Meal and flour of meslin
23. Biscuits
24. Sugar confectionery and other sugar preparations
25. Chocolate confectionery
26. Cassava flour
27. Cottonseed cake
28. Groundnut cake
29. Sesame-seed cake
30. Other oilseed cake and meal and vegetable oil residues
31. Beer of all types
32. Distilled alcoholic beverages

33. Paints, varnishes, lacquers and enamel
34. Distempers, water pigments, cement paints and the like
35. Essential oils, perfumes and flavour materials
36. Surface-acting agents and washing preparations
37. Polishes of all types
38. Plastic sheeting, tubing and piping
39. Plastic tiles
40. Fungicides, insecticides and weed-killers
41. Starches and inulin
42. Leather, dressed or undressed
43. Tyres and tubes for road motor vehicles
44. Tyres and tubes for pedal cycles
45. Veneer sheets
46. Plywood and veneered panels
47. Cellular wood panels
48. Boxes, cases, crates and tea chests
49. Paper bags, paperboard boxes and other packing containers
50. Exercise books, registers, albums, diaries, memorandum blocks and other stationery of paper or paperboard
51. Other paper and paperboard cut to size, *e.g.* toilet paper
52. Fishnets and netting
53. Asbestos-cement pipes, sheets, ridging, gutterings and tiles
54. Porcelain or china householdware
55. Householdware of other ceramic materials
56. Sinks, wash basins, bidets, baths and other sanitary and plumbing fixtures and fittings of ceramic materials
57. Corrugated iron sheets of all types, coated and uncoated
58. Hoop and strip of iron or steel
59. Iron and steel wires
60. Other types of wires
61. Tubes and pipes of iron or steel
62. Tube and pipe fittings of iron or steel
63. Metal casks, drums, boxes, cans or similar commercial containers
64. Nails, screws, nuts, bolts, rivets and similar articles of iron, steel or copper
65. Wood screws
66. Hoes (*jembes*), axes, pick axes and shovels
67. Machetes (*pangas*)
68. Razor blades
69. Household buckets not enamelled of iron or steel
70. Crown corks and bottle caps

71. Earthpans (*karais*) and aluminium holloware (*sufurias*)
 72. Gas and electric cookers
 73. Batteries and cells for flashlights and transistor radios
 74. Motor vehicle batteries
 75. Other electrical accumulators (storage batteries)
 76. Cycles (not motorised) and parts thereof
 77. Brooms and brushes
 78. Hand-scrubbing brushes and footwear cleaning brushes
 79. Matches
 80. Maize meal and flour
 81. Vegetable oils
 82. Manufactures of leather and of artificial or reconstituted leather
 83. Refrigerators
 84. Bodies for motor vehicles
 85. Motor spares (including brake linings)
 86. Fittings for files, paper clips, pins and staples and other similar stationery products of base metal
 87. Umbrellas
 88. Ropes and twines
 89. Aluminium foils, circles and sheets.
 90. Compound animal feed stuffs
 91. Yarn spun from cotton or synthetic fibres
 92. Cotton piece goods other than knitwear
 93. Cotton blankets
 94. Woollen piece goods other than knitwear
 95. Woollen blankets
 96. Steel drums of 23 to 273 litres capacity and 26 to 12 gauge
 97. Glassware of all types whether plain or moulded sheet glass and container glass
 98. Metal window frames, metal doors, metal door frames, manufactured as single or composite units, and any metal fitting for such window frames, door or door frames
 99. Enamel holloware, that is to say basins, plates and domestic utensils made from ferrous or non-ferrous metal and having an enamel coating over the whole or majority of the article
 100. Concrete—cement blocks, tiles, gutters, pipes
 101. Glazed clay tiles, bricks, tiles and ventilators
 102. Fibre brushes
 103. Tarpaulins, waterproof canvas covers, sails and awnings
 104. Boats, ships and yachts
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105. Motor vehicle assembling and body building
106. Window frames, doors or translucent sheetings
107. Vehicles and machinery spare parts
108. Agricultural machinery and implements
109. Radio aerials, dynamos, auto and domestic power cables
110. Casks, drums and boxes
111. Tea chests
112. Sodium silicate
113. Oxygen and acetylene
114. Polythene foam for cushioning and mattresses
115. Sugar (refined)
116. Tea (other than unprocessed leaf)
117. Non-alcoholic drinks
118. Fruit preserved and its preparations
119. Artificial sponges
120. Drinking straws
121. Brake linings
122. Bacon, ham and other smoked meat, whether or not in airtight containers (excluding dried meat and salted meat)
123. Sausages and other prepared or preserved meat
124. Milk and cream dry (in solid form or semisolid form), evaporated or condensed, including buttermilk and whey but excluding skimmed milk
125. Milk and cream dry (in solid form such as blocks or semisolid form)
126. Butter including clarified butter
127. Cheese and churn
128. Fish and fish preparation, frozen or in airtight containers
129. Meal and flour of wheat
130. Meal and flour of other cereals
131. Sugar (other than refined) including preparations of honey
132. Coffee roasted, including ground and coffee substitutes containing coffee
133. Chocolate and other food preparations containing cocoa or chocolate
134. Pulp and waste paper
135. Toothpaste or dental creams
136. Miscellaneous manufactured articles not any where classified above

History: Act 15/1969; S.I. 131/1969; S.I. 228/1969; S.I. 169/1970; S.I. 139/1971; S.I. 16/1988; Cap. 91 (Revised Edition, 2000); Act 17/2023