



MONTSERRAT

CHAPTER 15.15

EXTERNAL TRADE ACT and Subsidiary Legislation

Revised Edition

showing the law as at 1 January 2013

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

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CHAPTER 15.15

EXTERNAL TRADE ACT

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SCHEDULE

CHAPTER 15.15

EXTERNAL TRADE ACT

(Acts 29 of 1958, 6 of 2003 and 9 of 2011)

Commencement

[10 December 1958]

Short title

1. This Act may be cited as the External Trade Act.

Interpretation

2. In this Act—

“**export restricted goods**” means any goods in respect of which the Governor acting on the advice of Cabinet has made an order either under section 5(1)(a) prohibiting their export from Montserrat without a licence or under section 5(1)(b) limiting their export from Montserrat;

“**goods**” includes all kinds of moveable or personal property including animals;

“**import restricted goods**” means any goods in respect of which the Governor acting on the advice of Cabinet has made an order either under section 3(1)(a) prohibiting their import from any country or place without a licence or under section 3(1)(b) limiting their import.

(Amended by Acts 6 of 2003 and 9 of 2011)

Restriction on certain imports

3. (1) The Governor acting on the advice of Cabinet may from time to time by order published in the *Gazette* and in a newspaper circulating in Montserrat—

- (a) prohibit the import of any class of goods from or originating in any country or place without a licence granted under the provisions of section 4;
- (b) prohibit absolutely or limit the importation of any goods if in his opinion such action is in the interest of Montserrat or of any other part of Her Majesty’s dominions and may for the same reason make by order any such imports subject to such conditions as he may think fit.

(Amended by Act 9 of 2011)

(2) Every such order shall take effect as from the date of its publication in the *Gazette*.

(3) Where in any case any import licence has been granted in respect of any goods the subject of any order limiting their importation made under the provisions of subsection (1)(b) such licence shall be deemed to be cancelled from the date of the publication of the order in the *Gazette* and the Permanent Secretary with responsibility for Trade shall only issue fresh licences which conform with the provisions of any such order.

Licence to import

4. (1) Subject to the provisions of subsections (2) and (3) the Permanent Secretary with responsibility for Trade may grant a licence for the import of any import restricted goods.

(2) No licence shall be granted by the Permanent Secretary with responsibility for Trade for the import of any import restricted goods if in his opinion the import of such goods would, or would be likely to, prejudice any trade agreement or arrangement in respect of external or internal trade or currency entered into or approved of by or on behalf of the Government.

(3) The Permanent Secretary with responsibility for Trade shall make any licence granted under the provisions of subsection (2) subject to such conditions as he shall think necessary in order to ensure that the import of the goods in respect of which the licence is to be issued is in conformity with any agreement or arrangement in respect of internal or external trade or currency entered into or approved by or on behalf of the Government. In imposing such conditions the Permanent Secretary with responsibility for Trade shall have regard not only to the import of the goods in respect of which the licence is required but shall take into consideration the necessity, if any, for controlling the import of goods generally or the import of any particular type of goods and by such conditions shall ensure the equitable distribution of import licences.

(4) Notwithstanding the provisions of section 3 the following classes of goods may be imported without a licence whether they are import restricted goods or not—

- (a) goods in transit or for transshipment;
- (b) commercial travellers samples;
- (c) articles of British origin which have been imported into Montserrat, subsequently exported therefrom and thereafter returned to Montserrat;
- (d) baggage and private effects;
- (e) articles shown to be *bona fide* unsolicited gifts and not for resale;
- (f) currency notes or coins;
- (g) goods imported by the Government.

(Amended by Act 6 of 2003)

Restriction on the export of certain goods

5. (1) The Governor acting on the advice of Cabinet may from time to time by order published in the *Gazette* and in a newspaper circulating in Montserrat—

- (a) prohibit the export to any country or place of any class of goods without a licence granted under the provisions of section 6;
- (b) prohibit absolutely or limit the exportation from Montserrat of any goods to any country if in his opinion such action is in the interests of Montserrat or of any part of Her Majesty's dominions and may for the same reason make by order any such exports subject to such conditions as he may think fit.

(Amended by Act 9 of 2011)

(2) Every such order shall take effect as from the date of its publication in the *Gazette*.

(3) Where in any case any export licence has been granted in respect of any goods the subject of any order limiting their exportation made under the provisions of subsection (1)(b) such licence shall be deemed to be cancelled from the date of the publication of the order in the *Gazette* and the Permanent Secretary with responsibility for Trade shall only issue fresh licences which conform with the provisions of any such order.

(Amended by Act 6 of 2003)

Licence to export

6. (1) Subject to the provisions of subsection (2) the Permanent Secretary with responsibility for Trade may grant a licence for the export of any export restricted goods.

(2) No licence shall be granted by the Permanent Secretary with responsibility for Trade for the export of any export restricted goods if in his opinion the export of any such goods would be contrary to the economic interests of Montserrat or would, or would be likely to, prejudice any trade agreement or arrangement in respect of internal or external trade or currency entered into or approved by or on behalf of the Government.

(Amended by Act 6 of 2003)

Cancellation of licences, etc.

7. (1) The Permanent Secretary with responsibility for Trade may cancel any import or export licence if it appears to him necessary in order not to prejudice any agreement or arrangement relating to trade or currency entered into or approved by or on behalf of the Government subsequent to the granting of the licence.

(2) The Permanent Secretary with responsibility for Trade may waive any condition in any import licence if in his opinion the terms of such condition are no longer necessary.

(3) The Permanent Secretary with responsibility for Trade may delegate his powers under sections 4, 6 and 7 to officers in his Division.

(Amended by Act 6 of 2003)

Application forms

8. (1) All applications for licences under this Act shall be made in such manner as the Permanent Secretary with responsibility for Trade shall direct.

(2) All forms for use under the provisions of this Act shall be in such form as the Permanent Secretary with responsibility for Trade shall direct.

(Amended by Act 6 of 2003)

Appeals

9. (1) An appeal shall lie to the Governor acting on the advice of Cabinet against any decision made by the Permanent Secretary with responsibility for Trade refusing or cancelling any licence under this Act.

(Amended by Act 9 of 2011)

(2) Any such appeal shall be made within sixty days of the decision being communicated to the party aggrieved.

(Amended by Act 6 of 2003)

Offences and penalties

10. (1) Any person who imports or exports any goods in contravention of any of the provisions of this Act or the conditions of any licence issued under the provisions of this Act shall be guilty of an offence and shall—

(a) on summary conviction be liable to imprisonment for a term of three months or to a fine of \$480 or to both such imprisonment and such fine; or

(b) on conviction on indictment be liable to imprisonment for a term not exceeding two years or to a fine of \$2,400 or to both such imprisonment and such fine.

(2) A court convicting any person of any offence under this Act may, in addition to any other penalty it may impose, order the forfeiture of all or any part of the goods in respect of which the offence was committed and shall in every case order that the licence in whole or in part in respect of which the offence was committed shall not be granted or if it has already been granted shall be cancelled and may direct the Permanent Secretary with responsibility for Trade to issue no further licence to such person in respect of the same type of goods for a period not exceeding twelve months.

Liability of officers of corporate bodies

11. Where a person charged with an offence against any of the provisions of this Act is a body corporate every person who, at the time of

the commission of the offence, was a director or officer of the body corporate may be charged jointly in the same proceedings with such body corporate, and where the body corporate is convicted of the offence, every such director or officer shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Appearance and plea by corporation

12. (1) Where a corporation is charged with an offence against this Act such corporation may appear and plead to the charge or indictment, by its representative, by entering a plea in writing; and, if either the corporation does not appear by representative, or though it does so appear, fails to enter any plea, the court shall cause a plea of not guilty to be recorded and the trial shall proceed accordingly.

(2) Where a corporation is charged whether alone or jointly with some other person, with an indictable offence punishable under this Act, the magistrate may, if he is of opinion that the evidence offered on the part of the prosecution is sufficient to put the accused corporation upon trial, commit the corporation for trial.

(3) Any indictment filed against a corporation or other document addressed to a corporation may be served upon the corporation by leaving it at, or sending it by post to, the registered office of the corporation or, if there be no such office in Montserrat, by leaving it at, or sending it by post to, the corporation at any place in Montserrat at which it trades or conducts business.

(4) In this section the expression “**representative**”, in relation to a corporation, means a person duly appointed by the corporation to represent it for the purpose of doing any act or thing which the representative of a corporation is by this section authorised to do, but a person so appointed shall not, by virtue only of being so appointed, be qualified to act on behalf of the corporation before any court for any other purpose.

(5) A representative for the purposes of this section need not be appointed under the seal of the corporation, and a statement in writing purporting to be signed by a managing director of the corporation, or by any person (by whatever name called) having, or being one of the persons having, the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this section shall be admissible without further proof as *prima facie* evidence that that person has been so appointed.

Liability of employers

13. Every person shall be liable for the acts or omissions of any partner, agent or servant in so far as they relate to the business of such person, and if such partner, agent or servant commits any act or suffers any omission which is an offence against any of the provisions of this Act, or which

would be an offence if made or committed by such person, such person and his partner, agent or servant shall be jointly and severally liable to the penalties provided by this Act, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Transitional provisions as to existing regulations and instruments

14. Upon the expiry or revocation after the coming into operation of this Act of the regulations set forth in the Schedule, all orders, licences, permits or other instruments made, issued or granted under or by virtue of the provisions of any of the said regulations shall, if in operation immediately before the expiry or revocation of the said regulations, be deemed to have been made, issued or granted under or by virtue of the provisions of this Act relating to the making of orders or the granting of licences, as the case may be, and may accordingly be amended, cancelled or revoked under or by virtue of the said provisions of this Act but shall continue in force until their expiry, or until they have been revoked or cancelled under or by virtue of the said provisions.

SCHEDULE

(Section 14)

The Defence (Import and Export Restriction) Regulations, 1943 as amended by the Defence (Import and Export Restriction) (Amendment) Regulations, 1948.

EXTERNAL TRADE (IMPORT RESTRICTION) ORDER – SECTION 3

(S.R.O.s 81/1995, 16/2000, 23/2001, 7/2003 and 44/2004)

Short title

1. This Order may be cited as the External Trade (Import Restriction) Order.

Interpretation

2. In this Order—

“**Member of the Caribbean Community**” means a country which on the date of this Order is, or thereafter becomes a Member State of the Caribbean Common Market (CARICOM);

“**Member of the Organisation of Eastern Caribbean States**” means any country which on the date of this order is, or thereafter becomes a member state of the Organisation of Eastern Caribbean States (OECS).

Relief from licensing requirement

3. No import licence is required to import goods from a country which is a Member of the Caribbean Common Market but the importer of such goods is required to furnish evidence of origin in accordance with the Customs Duties and Consumption Tax (Community Origin) Regulations or any Regulation that may be enacted in its place.

Licences

4. (1) Notwithstanding paragraph 3 an import licence is required to import any of the goods listed—

- (a) in Schedule 1 when the goods originate from a country which is not a Member of the Caribbean Common Market (CARICOM); or
- (b) in Schedule 2 when the goods originate from a country which is not Belize or is not a Member of the Organisation of the Eastern Caribbean States (OECS).

- (2) Any application for a licence under this order shall be made to the Permanent Secretary with responsibility for Trade prior to the importation of the goods in respect of which the licence is required.

Offences

5. A person who imports goods the importation of which requires a licence under regulation 4 without obtaining a licence prior to their importation commits an offence and is liable on summary conviction to a fine of \$480 or to a term of imprisonment of three months or to both such fine and imprisonment.

SCHEDULE 1

Goods which require an import licence prior to being imported from any country which is not a member of the Eastern Caribbean Common Market of the OECS or the Caribbean Common Market (CARICOM)—

| TARIFF NUMBER | DESCRIPTION |
|---------------|---|
| 0714.902 | Dasheen |
| 0714.904 | Tannia |
| 0714.905 | Yams |
| 0802.909 | Peanuts |
| 0804.30 | Pineapples |
| 0804.4 | Avocados |
| 08.05 | Citrus |
| 1701.10 | Raw Sugar |
| 3401.10 | Soap and organic surface-active products and preparations for use as soap in the form of bars, cakes, moulded pieces or shapes (including toilet soap, medicated soap, laundry soap and laundry detergent bars) |

SCHEDULE 2

Goods which require an import licence prior to being imported from any country which is not Belize or a member of the Organisation of Eastern Caribbean States—

ARTICLE 164 ITEMS

| TARIFF NUMBER | DESCRIPTION |
|---------------|--|
| 0910.50 | Curry Powder |
| 1101.00 | Wheat flour |
| 1902.001 | Macaroni, spaghetti and other pasta products |
| 2203.001 | Beer |
| 2811.21 | Carbon dioxide |
| 2901.002 | Acetylene |
| 34.06 | Candles |
| 8419.10 | Solar water heaters |
| 94.01 | Chairs and seats of wood and upholstered fabric whether or not convertible into beds and parts thereof |
| 9403.30 | Wooden furniture of a kind used in offices |
| 9403.40 | Wooden furniture of a kind used in kitchen |
| 9403.50 | Wooden furniture of a kind used in bedroom |
| 9403.60 | Other wooden furniture |

(Amended by S.R.O. 44/2004)

ADDITIONAL ITEMS

| TARIFF NUMBER | DESCRIPTION |
|---------------|--|
| 0201.303 | Ground or minced beef – fresh or chilled |
| 0202.303 | Ground or minced beef – frozen |
| 04.07 | Eggs in Shell |
| 0701.90 | White potatoes |
| 0702.00 | Tomatoes |
| 0703.101 | Onions |
| 0704.001 | Cabbages |
| 0705.10 | Lettuce |
| 0706.001 | Carrots |
| 0707.001 | Cucumbers |
| 0709.004 | Pumpkins |
| 0709.006 | Sweet peppers |
| 0714.20 | Sweet potatoes |

(Amended by S.R.O. 7/2003)

MISCELLANEOUS RESTRICTION ORDERS

made under Section 3

Importation of the following products was restricted by the S.R.O. listed—

| | |
|----------------|--|
| S.R.O. 19/1973 | Hexachlorophene preparations containing Hexachlorophene in a concentration of 0.1%—total prohibition |
| S.R.O. 19/1988 | Fireworks |
| S.R.O. 14/1978 | Pork from Dominica |
| S.R.O. 7/1985 | White (English) potatoes, without a licence |
| S.R.O. 1/1990 | Asbestos products |
