No. 01 - 2018



ANACT to Validate and confirm as lawful the imposition, variation and renewal of tax under the *Licences on Trades and Business Act* by an order made pursuant to section 3 of the *Provisional Collection of Tax Act*, the collection of the tax, in good faith, during the period commencing on the 30th day of December, 2015 and ending on the day of coming into operation of this Act; to indemnify the Government and persons acting on behalf of the Government from liability in relation to the imposition, variation and collection of tax; to amend the Licences on Trades and Business Act; and for connected matters.

WHEREAS section 3(1) of the *Provisional Collection of Tax Act* (hereinafter referred to as the "Act") empowers the Minister responsible for finance to make an order (hereinafter referred to as a "provisional collection of tax order") providing for the variation of

any tax for the time being in force, for the renewal for a further period of any tax in force during the previous financial year or which was imposed for any limited period, or for the imposition of any tax:

AND WHEREAS section 3(1) of the Act provides further that, notwithstanding anything to the contrary, the provisions of a provisional collection of tax order shall, for the period limited by that section and subject to the provisions of the Act, have effect as if contained in an Act of Parliament:

AND WHEREAS section 3(3) of the Act provides that a provisional collection of tax order shall, subject to subsection (4) of that section, continue for a period of six months next following publication thereof in the *Gazette* unless the House of Representatives by Resolution authorizes the continuance in force of the order for an additional period of three months:

AND WHEREAS section 3(4) provides further that a provisional collection of tax order shall cease to have effect if it is not confirmed (with or without modification, by Resolution of the House of Representatives) within the next thirty days on which the House sits after the date of publication of the order in the *Gazette*, if Parliament is dissolved, or if an enactment comes into operation varying, renewing or imposing the tax:

AND WHEREAS section 4(2) of the Act provides that where an order under section 3(1) ceases to have effect before an enactment comes into operation confirming or modifying the provisions thereof, any money paid in pursuance of that order shall be repaid or made good and any deduction made in pursuance of that order shall be deemed to be an unauthorized deduction:

AND WHEREAS on the 31st day of March, 2015, the Minister responsible for finance made a provisional collection of tax order varying, renewing and imposing trade and business licence duties under the Licences on Trades and Business Act, cited as "The *Provisional Collection of Tax (Licences on Trades and Business) Order, 2015,*" (hereinafter referred to as the "Order"):

AND WHEREAS the Order was confirmed by Resolution of the House of Representatives on the 6th day of October, 2015, and the continuance in force of the Order was authorized by Resolution of the House of Representatives made on the 13th day of October, 2015, for an additional period of three months:

AND WHEREAS the continuance in force of the Order ceased on the 30th day of December, 2015:

AND WHEREAS no permanent amendment in relation to the matters comprised in the Order was made to the Licences on Trades and **Business Act:**

AND WHEREAS the Government, and persons acting for or on behalf of the Government, in good faith, have been varying, imposing, assessing and collecting trade and business licence duties on the basis of the provisions of the Order after the cessation of the continuance in force of the Order:

AND WHEREAS it is desirable to validate and confirm as lawful the variation, imposition, assessment and collection of the trade and business licence duties, in good faith, during the period commencing on the 30th day of December, 2015, and ending on the day of the coming into operation of this Act, and to indemnify the Government and persons acting on behalf of the Government from liability in relation thereto:

[5th day of March 2018]

NOW, THEREFORE, BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:-

1. This Act may be cited as the Licences on Trades and Business Short title (Validation, Indemnification and Amendment) Act, 2018, and shall be and read and construed as one with the Licences on Trades and Business Act (hereinafter referred to as the "principal Act") and all amendments thereto.

construction.

Validation and Indemnification

Validation and indemnification.

- 2.—(1) Notwithstanding the *Provisional Collection of Tax Act* and anything to the contrary in any other enactment, the variation, imposition, assessment and collection of the trade and business licence duties so varied and imposed under the *Provisional Collection of Tax (Licences on Trades and Business) Order, 2015*, after the cessation of the continuance in force thereof, by the Government, and persons acting on behalf of the Government, in good faith, during the period commencing on the 30th day of December, 2015, and ending on the day of the coming into operation of this Act, are declared to have been validly, properly and lawfully done to all intents and purposes and with effect as if duly authorized by law.
- (2) Every person liable to be legally proceeded against on the ground that any of the acts referred to in subsection (1), though done in good faith was unauthorized, unlawfully done, or otherwise illegal or improper, for any such reason, are freed, acquitted, discharged and indemnified against The Queen's Most Excellent Majesty, Her Heirs and Successors as well as against all persons, whatsoever, from such liability.

Amendment of Principal Act

Amendment of section 2 of principal Act.

- 3. Section 2 of the principal Act is amended by inserting in their correct alphabetical sequence the following definitions—
 - ""retail licence" means a trade and business licence taken out by a wholesale dealer or retailer in respect of his trade where it includes the retail sale of wine, beer or other malt liquor;
 - "trade and business licence" means a licence as a retailer and any other licence for a trade or business that is taken out under section 3 and delivered under section 7;".

Amendment of section 3 of principal Act.

- 4. Section 3 of the principal Act is amended—
 - (a) in subsection (1), by deleting the words "Subject to subsection (1A)," and substituting therefor the words "Subject to subsection (2),";

- Indemnification and Amendment) Act, 2018
- by deleting subsections (2), (3) and (4); and by renumbering subsection (1A) as subsection (2).
- 5. Section 4(1) of the principal Act is amended by deleting the Amendment words "a licence" and substituting therefor the words "a trade and business licence".

of section 4 of principal Act.

Amendment of section 5 of principal

Act.

[No.]

6. Section 5 of the principal Act is amended, by deleting—

Part I.

Third

- subsection (1) and substituting therefor the following—
 - (1) For the purposes of this Act
 - wholesale dealers are classified in accordance with the wholesale dealer grades specified in Part I of the Third Schedule;
 - Schedule. (b) retailers are classified in accordance with the retailer grades specified in Part II of the Third Schedule."; Part II.
- (b) from subsections (2) and (3) the words "retailer" and "retailer's" wherever they appear and substituting therefor, in each case, the words "wholesale dealer or retailer" and "wholesaler dealer's or retailer's", respectively;
- from subsections (4) and (5) the word "retailer" wherever it appears and substituting therefor in each case the words "wholesale dealer or retailer";
- from subsection (6) the words "retailer or an applicant" and substituting therefor the words "wholesale dealer, retailer or an applicant"; and
- from subsection (7) the word "retailer" and substituting therefor the words "wholesale dealer or retailer".
- 7. Section 7 of the principal Act is amended by—
 - (a) renumbering the section as section 7(1); and

of section 7 of principal Act.

Amendment

[No.] The Licences on Trades and Business (Validation, Indemnification and Amendment) Act, 2018

(b) inserting next after subsection (1), as renumbered, the following as subsection (2)—

> (2) Subject to section 25(2), the licence referred to in subsection (1), including the certificate endorsed on the licence, shall be in the form set out in Part

Part I. Fourth Schedule.

66

I of the Fourth Schedule.".

Repeal and replacement of section 23 of principal Act.

8. The principal Act is amended by deleting section 23 and substituting therefor the following-

"Penalty for not taking out licence. First Schedule.

- 23.—(1) A person who carries on a trade or business mentioned in the First Schedule, without having within the prescribed time taken out the licence required under section 3 of this Act commits an offence and is liable on conviction in a Parish Court to a fine not exceeding two hundred and fifty thousand dollars.
- (2) The payment of a fine under subsection (1), shall not in any manner prejudice, or affect any proceedings instituted for the recovery of the amount payable in respect of any such licence.".

Amendment of section 25 of principal Act.

- 9. Section 25 of the principal Act is amended
 - in subsection (2), by deleting the words "to a penalty not exceeding four dollars" and substituting therefor the words "on conviction in a Parish Court to a fine not exceeding two hundred and fifty thousand dollars"; and
 - (b) by renumbering subsection (2), as subsection (3) and inserting next after subsection (1), the following as subsection (2)—

(2) The retail licence referred to in subsection (1), including the certificates required under section 7 and this section to be endorsed on the retail licence, shall be in the form set out in Part II of the Fourth

Part II. Fourth Schedule.

Schedule.".

10. Section 27 of the principal Act is repealed.

Repeal of section 27 of principal Act.

11. Section 28 of the principal Act is amended by deleting subsection Amendment (2) and substituting therefor the following—

of section 28 of principal Act.

- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction in a Parish Court to a fine not exceeding two hundred and fifty thousand dollars.".
- 12. Section 29 of the principal Act is amended—

Amendment of section 29 of principal

- (a) by renumbering the section, as section 29(1);
- in subsection (1), as renumbered, by deleting from paragraph (e) all the words starting from the words "shall be liable" and ending with the words "on the premises" and substituting therefor the words "commits an offence and is liable on conviction in a Parish Court to a fine not exceeding two hundred and fifty thousand dollars."; and
- (c) inserting next after subsection (1), as renumbered, the following as subsection (2)—
 - (2) The person in whose name the licence is held and the person who is the actual keeper or manager of the premises referred to in subsection (1), shall each be liable to the penalty provided by this section and for any breach of this section committed by his employee on the premises.".
- 13. The principal Act is amended by deleting section 30 and Repeal and substituting therefor the following-

replacement of section 30 of principal

"Offences.

- 30.—(1) Aperson who, in any part of the premises where wine, beer, or other malt liquors, are sold under licence
 - is in a state of drunkenness or engages in disorderly conduct;

- (b) engages in any unlawful games or gaming;
- (c) is found in any such premises, other than a shop, between the hours of midnight and six o' clock in the morning, unless such person is employed on the premises or has lawful business there,

commits an offence, and is liable on conviction in a Parish Court to a fine not exceeding two hundred and fifty thousand dollars.

- (2) For the purposes of this section—
- (a) "licence" means a licence delivered under this Act or a licence issued under any other enactment to sell wine, beer, or other malt liquors;
- (b) the burden of proving that a person is employed as described in subsection (1)(c) shall lie on that person."

Insertion of new section 38 in principal Act. 14. The principal Act is amended by inserting next after section 37 the following as section 38—

"Amendment of schedules and monetary penalties.

- 38.—(1) Subject to subsection (2), the Minister responsible for finance may, by order, amend any of the schedules to the Act and the monetary penalties imposed by this Act.
- (2) An order made under subsection (1) shall be subject to affirmative resolution of the House of Representatives.".

Indemnification and Amendment) Act, 2018

15. The principal Act is amended by deleting the First Schedule and Repeal and substituting therefor the following—

replacement of First (Sections 3, 4 Schedule to principal and 38) Act.

[No.]

FIRST SCHEDULE

Trade or Business Licences

Every person carrying on a trade or business specified in Column I shall take out a licence in respect of each activity or person specified in relation thereto in Column II, on payment of the applicable licence duty specified in relation to the activity or person in Column III.

Column I	Column II	Column III
ê 	3	-
Merchant or General Factor	For each designated place of business with capability to store in and deliver out of public and other warehouses	\$5,000.00
2. Wholesale dealer	For each designated place of business with capability to store in and deliver out of public and other warehouses—	
	Grade I Wholesale dealer	\$5,000.00
	Grade II Wholesale dealer	\$15,000.00
	Grade III Wholesale dealer	\$25,000.00
	Grade IV Wholesale dealer	\$35,000.00
	Grade V Wholesale dealer	\$45,000.00
	Grade VI Wholesale dealer	\$55,000.00
	Grade VII Wholesale dealer	\$65,000.00
	Grade VIII Wholesale dealer	\$75,000.00
Auctioneer or Commis-	For each—	
sion Agent	(a) designated place of business; and	\$5,000.00

The Licences on Trades and Business (Validation, Indemnification and Amendment) Act, 2018

Column I	Column II	Column III
	(b) person carrying on business	\$5,000.00
4. Wharfinger	For each wharf	\$5,000.00
Super- cargo	For each person carrying on a business	\$5,000.00
Proprietor of news-	For each designated newspaper, that is published	
paper	(a) daily	\$5,000.00
	(b) other than daily	\$1,000.00
7. Retailer	For each designated place of business—	
	Grade I Retailer	\$2,500.00
	Grade II Retailer	\$5,000.00
	Grade III Retailer	\$10,000.00
	Grade IV Retailer	\$15,000.00
	Grade V Retailer	\$25,000.00
	Grade VI Retailer	\$35,000.00
	Grade VII Retailer	\$45,000.00
	Grade VIII Retailer	\$55,000.00
	Grade IX Retailer	\$65,000.00
	Grade X Retailer	\$75,000.00.".

16. The principal Act is amended by deleting the Second Schedule Repeal and replacement of Second

Repeal and replacemen of Second Schedule to principal Act.

SECOND SCHEDULE

66

(Sections 4 and 38)

[No.]

AVIEDRA	ICENCES ON TRAC			IOTHOT	TB01
APPLICATION F	AND BUSINES				Financial Year:
Section A: APPLICANT'S INFORMATION 1. Applicant/Business Name (for individuals				egistration Number (
3. Trade Name:			4. Parish in wh	ich business/trade is	carried on:
5. Business Address/Registered Office:		8. Mailing Ad	dress (if differen	t from 5):	
7, Contact Numbers; Dusiners: Cell: Fax:	8, E-mail Address			Ø. Tick box(es), ∉s ☐ Revised Ret ☐ New Addres	um
Section B: APPLICATION / RETURN DETAIL		,			
10, Date Trade/Business Commenced:	(dd) -	11. Are your	accounts compu	rterized ?	Partly
12. Indicate the type of Licence Application/R	eturn from one of th	e three groups	s below:		
Group 3 (Select, then complete Section C: WHOLESALER / RETAILER DET/ 13. Do you intend to sell wine, beer, or any other 14. Do you have a Spirit Licence ?	mait liquor ? mait liquor you MU of the Peace from	Yes Yes ST first be oer	finger [] finalessier/Rets (Go to 14) (Go to Section E tiffied as fit to dehich your busi	o so by either a So ness is comied on	Section E) Interpretation E) Uperintendent
	Statemer	nt of Fitness			
1	acting in my	capacity as	Justice of the	Peace / Police S	iuperintendent
for the parish	certif	y that	,Herre st	Bushess Caner.	is
a fit and proper person to sell wine,	beer or other mal	li Aquom.	1 (AUG 1)		
Signature				0 A/G	
PLEA!	SE REE OVERLEAF F	OR CONTINUA	TION OF FORM		
	v 2015(th)			Minis	try of Local Governmen

[No.] The Licences on Trades and Business (Validation, Indemnification and Amendment) Act, 2018

Section D: DETAILS	OF NEWSPAPER	(To be Compl	eted by Applicants wh	o are Newspaper Proprietors Only)
15. Newspaper Title: Na				,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
16, Address at which Ne	ewspaper is Published:			
Section E: DETAILS		S) (To be Comp.	eted by ALL Applicant	ts - Use Additional Sheet if Necessary,
17. Proprietor's Name	(Last, First, Middle):			18. Propositor's TRN: (president)
19. Proprietor's Home A	ddress:			
20. Proprietor's Name	(Last, First, Middle)			21. Proprietor's TRN: (alconomia)
22. Proprietor's Home A	ddress:			1, - 4, 31, 4, -3, -13, -14,
23. Proprietor's Name	(Last, First, Middle):			24. Proprietor's TRN: (pyanob a)
25. Proprietor's Home A	ddress:			
Section F: DETAILS	OF PRINCIPAL OF	FICER (To be Con	npleted by ALL Applic	ants)
26. Principal Officer's Na	imė:			27. Principal Officer's TRN ्वत्वादत ह।
28. Principal Officer's Ho	ome Address:			29. Position/Title:
Section G: DECLAR I decisre that this re- ticence in terms here	turn/application is in	all factual respects t	rue; and I apply for a	FOR OFFICIAL USE ONLY
Principal Officer's Sig	nature	Dete		
Please complete if p	repared by person oth	er than Principal Off	icer.	
Name				
Tale/Position		Contact / Telepho	ne Numbers	
Signature	FOR OFFICIAL	Date USE ONLY		
Riccammendad Course of Al Issue TBL, no S Comanics	tion	kt then lesue TBL	Issue TBL then Site Vist.	
Officer's Name	Poston.	Signature	Date	

Indemnification and Amendment) Act, 2018

17. The principal Act is amended by inserting next after the Second Insertion of Schedule the following as the Third and Fourth Schedules—

new Third and Fourth Schedules in Act.

THIRD SCHEDULE

(Section 5) principal

[No.]

PART I

Classification of Wholesale Dealers

Wholesale Dealer Grade	Description
Grade I Wholesale dealer	Wholesale dealers whose annual turnover does not exceed \$2,500,000.00
Grade II Wholesale dealer	Wholesale dealers whose annual turnover exceeds \$2,500,000.00 but does not exceed \$5,000,000.00
Grade III Wholesale dealer	Wholesale dealers whose annual turnover exceeds \$5,000,000.00 but does not exceed \$10,000,000.00
Grade IV Wholesale dealer	Wholesale dealer whose annual turnover exceeds \$10,000,000.00 but does not exceed \$15,000,000.00
Grade V Wholesale dealer	Wholesale dealer whose annual turnover exceeds \$15,000,000.00 but does not exceed \$25,000,000.00
Grade VI Wholesale dealer	Wholesale dealer whose annual turnover exceeds \$25,000,000.00 but does not exceed \$50,000,000.00

[No.] The Licences on Trades and Business (Validation, Indemnification and Amendment) Act, 2018

Wholesale Dealer Grade

Description

Grade VII Wholesale dealer

Wholesale dealer whose annual turnover exceeds \$50,000,000.00 but does not exceed \$100,000,000.00

Grade VIII Wholesale dealer

Wholesale dealer whose annual turnover exceeds

\$100,000,000.00

PART II

Classification of Retailers

Retailer Grade

Description

Grade I Retailer

Retailers whose annual

turnover does not exceed

\$500,000.00

Grade II Retailer

Retailers whose annual

turnover exceeds \$500,000.00 but does not exceed

\$1,000,000.00

Grade III Retailer

Retailers whose annual

turnover

exceeds

\$1,000,000.00 but does not

exceed \$2,500,000.00

Grade IV Retailer

Retailers whose annual

turnover

exceeds

\$2,500,000.00 but does not

exceed \$5,000,000.00

Grade V Retailer

Retailers whose annual

turnover

exceeds

on, [No.]

Retailer Grade

Description

\$5,000,000.00 but does not exceed \$10,000,000.00.

Grade VI Retailer

Retailers whose annual turnover exceeds \$10,000,000.00 but does not exceed \$15,000,000.00

Grade VII Retailer

Retailers whose annual turnover exceeds \$15,000,000.00 but does not exceed \$25,000,000.00

Grade VIII Retailer

Retailers whose annual turnover exceeds \$25,000,000.00 but does not exceed \$50,000,000.00

Grade IX Retailer

Retailers whose annual turnover exceeds \$50,000,000.00 but does not exceed \$100,000,000.00

Grade X Retailer

Retailer whose annual turnover exceeds \$100,000,000.00.

The Licences on Trades and Business (Validation, Indemnification and Amendment) Act, 2018

FOURTH SCHEDULE

(Sections 7 and 25)

PART I



THE LICENCES ON TRADES AND BUSINESS ACT

TRADE AND BUSINESS LICENCE

(for trade, excluding retail sale of malt liquor)

Lice	nce No.:	
For f	inancial year April 1st to March 31,	,20
	(Name of licensee)	<u>-</u>
is dul	y licensed to carry on the trade or bu	usiness of:
	Merchant or General Factor	
	Wholesale dealer: Grade	Wholesale dealer
	(Grade of whole	sale dealer, e.g. I)
	Auctioneer or Commission Agent	
	Wharfinger	
	Super-cargo	
	Proprietor of newspaper	
	Retailer: Grade	Retailer
	(Grade of retailer, e.g	. 1)
at prei	mises situated at	
		trade or business)
in the	parish of	from the date hereof to
	(Name of parish)	
the 31s	st day of March, 20 and is o	certified by the Collector of
a moie	as having made payment of the trade ty thereof where a moiety may be ac he Schedule to this licence.	or business licence duty (or
	-10 Solitodate to till sitteffice.	

SCHEDULE

Certificate

	Collector of Taxes
(Name of Colle	ctor)
for the parish of	
	(Name of parish)
CERTIFY that	
	(Name of licensee)
(a) has paid to me the sun	n of
(\$)	
Check as appropria	ate
☐ in full satisf	action of licence duty,
as a moiety	of the amount of licence duty,
for licence no.:the premises.	· - Camado on business at
Date:	Collector of Taxes

The Licences on Trades and Business (Validation, Indemnification and Amendment) Act, 2018

PART II



THE LICENCES ON TRADES AND BUSINESS ACT

TRADE AND BUSINESS LICENCE

(for trade, including retail sale of malt liquor)

Licence		me oj mun nguor)
For fina	encial year April 1st to March 31,	20
	(Name of licensee)	
is duly li	icensed to carry on the trade or bu	siness of:
	Wholesale dealer: Grade	Wholesale dealer esale dealer
	Retailer: Grade	
	(Grade of rel	Retailer tailer, e.g. I)
at the pre	emises situated at	in the parish of
	(Address of trade	e or business)
	from the da	ate hereof to the 31st day of
March, 2	and is certified by	the Collector of Taxes:
(a)	as having made payment of the duty (or a moiety thereof where and	e trade or business licence
(b)	as having delivered to the Coll made by a Superintendent of Pol for the parish in which the trade the aforementioned licensee is a wine, beer, or other malt liquors,	lice or a Justice of the Peace or business is situated, that fit and proper person to sell

in the certificate set out in the Schedule to this licence.

Indemnification and Amendment) Act, 2018

SCHEDULE

Certificate

ame of Collector)	(Name
CERTIFY that	the parish of
(Name of parish)	
(N. (11: 11: 12: 12: 12: 12: 12: 12: 12: 12:	
(Name of licensee)	
I to me the sum of	(a) has paid to
)—	(\$
ck as appropriate—	Check
☐ in full satisfaction of licence duty,	
as a moiety of the amount of licence duty,	
rade or business at the premises situated aforesaid	for lice of trad and
livered a statement made by a Superintendent of Police ustice of the Peace that the aforementioned named ee is a fit and proper person to sell wine, beer, or other quors.	or a Justi
,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	ate:
Collector of Taxes	

Passed in the House of Representatives this 18th day

PEARNEL CHARLES, CD, MP, JP Speaker.

Passed in the Senate this 26th day of January, 2018 with two (2) amendments.

THOMAS TAVARES-FINSON, CD, QC, JP

President.

The Licences on Trades and Business (Validation, Indemnification and Amendment) Act, 2018

On the 6th day of February, 2018 the House of Representatives agreed to the amendments made by the Senate.

PEARNEL CHARLES, CD, MP, JP
Speaker.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

Sod. Hearther E. Cooke Clerk to the Houses of Parliament.