

BILL NO. 19 of 1989

Saturday, 25th November, 1989

PARLIAMENT OFFICE,
Public Buildings,
Georgetown,
Guyana.

1989—11—24.

The following Bill which will be introduced in the National Assembly is published for general information.

F. A. Narain
Clerk of the National Assembly.

GUYANA

BILL NO. 19 of 1989

DEALERS IN FOREIGN CURRENCY

(LICENSING) BILL 1989

ARRANGEMENT OF SECTIONS

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A BILL

Intituled

AN ACT to make provision for the licensing of persons carrying on the business of buying and selling foreign currency, and for matters connected therewith.

Enacted by the Parliament of Guyana:-

A.D. 1989

1. This Act may be cited as the Dealers in Foreign Currency (Licensing) Bill 1989 and shall come into operation on such date as the Minister may, by order, appoint.

Short title and commencement.

In this Act -

Interpretation.

(a) "authorised dealer" has the same meaning as in the Exchange Control Act;

Cap. 86:01

(b) "exempted foreign currency" means any foreign currency which -

(i) is received as a result of the settlement of any monetary obligation or transaction in foreign currency, where such settlement is in accordance with section 21 of the Bank of Guyana Act;

Cap. 85:02

4.

Cap. 86:01

- (ii) is required to be sold to an authorised dealer under section 25 (1) (c) of the Exchange Control Act;
 - (iii) is received by any person in foreign currency by virtue of the provisions contained in any other written law;
 - (c) "foreign currency" means any currency other than Guyana dollars and includes a travellers' cheque designated in a foreign currency;
 - (d) "licence" means a licence under the Act;
 - (e) "licensed business" means the business of buying and selling foreign currency a licensee is authorised to carry on;
 - (f) "licensed premises" means the premises specified in a licence as the premises where the licensed business may be carried on by the holder of the licence;
 - (g) "licensee" means the holder of a licence, which has not been suspended or revoked or the term of which has not expired;
 - (h) "prescribed" means prescribed by the Minister by regulations;
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- (i) "week" means a period of seven days beginning with Monday and ending with **Sunday**.

3.(1) Every person who is desirous of carrying on the business of buying and selling foreign currency may apply to the Minister in the prescribed form for a licence for that purpose.

Application for licence.

(2) Every application for a licence shall be accompanied by such fees as may be prescribed.

4.(1) The Minister may, having regard to -

Grant of licence.

- (a) the experience, of the applicant for a licence, in dealing in foreign currency;
- (b) the financial resources of the applicant; and
- (c) the character and antecedents of the applicant,

grant or refuse to grant to him a licence.

(2) Where the Minister is of the opinion that, having regard to the likely volume of the business of buying and selling foreign currency in the area where the applicant proposes to carry on the licensed business,

an adequate number of persons have already been granted licences and are carrying on licensed business in the area, the Minister may refuse a licence to the applicant.

(3) A licence shall be in such form as may be prescribed and such fees as may be prescribed shall be paid for the grant of the licence.

Term of
licence and
renewal.

5. A licence shall expire on the expiry of the 31st December of the year in which it is granted, but may be renewed on an application made therefor in the prescribed form and on payment of such fees as may be prescribed:

Provided that the Minister may, after giving the applicant a reasonable opportunity of being heard, refuse the renewal of a licence where the licensee has contravened any provision of this Act or any condition of the licence.

Premises
where licensed
business to be
carried on.

6.(1) A licence shall specify the premises where the licensed business may be carried on and the licensed business shall not be carried on in any other premises.

(2) Where a licensee is desirous of shifting the licensed business to premises other than the premises specified in the licence, he shall make an application therefor in the prescribed form along with such fees as may be prescribed and, where the Minister grants the

7.

application, the licence shall be amended accordingly.

7.(1) Every licence shall be subject to the provisions of this Act, such conditions as may, from time to time, be prescribed or specified in the licence.

Conditions
of licence.

(2) The conditions of a licence referred to in subsection (1) may include a condition as to the furnishing of security by the licensee, the amount and forfeiture thereof and the power of the Minister to vary the amount of the security from time to time.

8.(1) The Minister may revoke a licence granted to a licensee if

Revocation
and suspension
of licence.

(a) he has ceased to carry on the licensed business for a period of not less than six months; or

(b) has contravened, or failed to comply with, any of the conditions subject to which the licence was granted or any provision of this Act.

(2) A licence may be suspended by the Minister for such period as may be specified by him on the ground that the licensee has contravened, or has failed to comply with, any of the conditions subject to which the licence was granted or the provisions of this Act, or pending any investigation into a complaint that the licensee is guilty of any such act or omission.

(3) The Minister shall not revoke or suspend a licence unless the holder of the licence has been given a reasonable opportunity of being heard.

Right of
licences
to buy, sell
or hold
foreign
currency.

9.(1) Subject to the provisions of this Act and the conditions of the licence, a licensee shall be entitled to carry on the business of buying and selling foreign currency.

(2) A licensee shall not be under any obligation to sell to an authorised dealer the foreign currency bought by the licensee under this Act.

(3) The price at which a licensee may buy or sell any foreign currency shall be determined by the licensee and shall be displayed at a prominent place on the licensed premises.

(4) A licensee shall not carry on the business of lending or borrowing, or accepting deposits of, any foreign currency, except where the Minister, by notification in the Gazette, permits it.

Special pro-
visions rela-
ting to
authorised
dealers who
are licensees.

10.(1) An authorised dealer may be granted a licence under this Act.

(2) Where an authorised dealer is granted a licence under this Act, the business that the licensee is entitled to carry on under section 9 and the business as an authorised dealer shall be carried on in separate units or divisions, separate accounts and other records shall be maintained for the two businesses and the foreign currency received in the course of transactions as a licensee shall be kept separate from

the foreign currency received in the course of transactions as authorised dealer.

11.(1) Any person entitled to sell foreign currency, not being exempted foreign currency, may sell it to a licensee.

Right to sell foreign currency to, and to buy foreign currency from, licensee.

(2) The Minister may permit any person holding exempted foreign currency to sell a part or the whole of it to a licensee and, where any such permission is granted, the person may sell a part or whole, as the case may be, of the exempted foreign currency to a licensee in accordance with the permission.

(3) A permission under subsection (2) may be granted subject to such conditions as may be specified by the Minister or without any conditions.

(4) Subject to the provisions of subsection (5), any person may buy any foreign currency from a licensee.

(5) The Minister may, by notification in the Gazette, direct that a licensee may sell a foreign currency, to any person, only for such purposes as may be specified in the notification or only to any person authorised by the Minister to buy the foreign currency for any specified purpose, and the licensee shall comply with the direction.

12.(1) A licensee shall give to any person selling any foreign currency to the licensee, a receipt and keep a duplicate of the receipt.

Receipts..

(2) A licensee shall take from every person buying any foreign currency from the licensee a receipt and give the purchaser a duplicate of the receipt.

Act to over-
ride other
written laws.

Cap. 86:01

13. Any act authorised to be done by this Act and done in accordance with it shall not be deemed to be an offence under the Exchange Control Act and the provisions of this Act shall have effect notwithstanding anything contained in the Exchange Control Act or any other written law.

Keeping of
accounts and
other records.

14.(1) Every licensee shall maintain a proper account in which shall be recorded

- (a) the amount of each foreign currency purchased by the licensee each day and the price paid therefor;
- (b) the amount of each foreign currency sold by the licensee each day and the price received therefor;
- (c) the opening and closing balances each day in respect of each foreign currency held by the licensee;
- (d) any other particulars that may be prescribed.

(2) A licensee shall maintain a record in respect of each day of the price, determined by the licensee, for the purchase and sale of each currency, bought

and sold by him that day, when he opened, and closed the licensed business for the day (hereinafter called the opening and closing rates).

15.(1) Every licensee shall make and furnish to the Bank of Guyana every Monday a return stating the opening and closing rates for each of the days on which the licensee carried on the licensed business in the preceding week.

Returns.

(2) Every licensee shall make and furnish to the Bank of Guyana, not later than every Wednesday in a week, a return stating the following particulars pertaining to the licensed business in respect of the preceding week

- (a) the amount of each foreign currency which the licensee held when he opened for business at the beginning of the week;
- (b) the amount of each foreign currency purchased by him in the week;
- (c) the amount of each foreign currency sold by him in the week;
- (d) the amount of each foreign currency held by the licensee when the licensee closed business at the end of the last day on

which he carried on business in the week;

- (e) such other particulars as may be prescribed.

Production and examination of books.

16. Any public officer authorised by the Minister in this behalf may, during the hours the licensed premises of a licensee are ordinarily open for business, enter thereon and

- (a) request the licensee or any of his employees to produce any accounts, books, records and documents

- (i) relating to the licensed business as are found therein;

- (ii) likely to contain, in the opinion of such public officer, evidence of the contravention of any provision of this Act or any condition of the licence granted to the licensee,

and may examine and take copies of

(b) question -

- (1) the licensee or any of his employees; or.
- (11) any other person found on the licensed premises.

17. (1) Any person who sells to any person, other than a licensee or authorised dealer, any foreign currency, which under section 11 may be sold to a licensee, shall be liable, on summary conviction, to a fine of five thousand dollars and to imprisonment for one year.

Penalties.

(2) Any person, not being a licensee or authorised dealer, who buys or sells any foreign currency shall be liable, on summary conviction, to a fine of not less than ten thousand dollars and to imprisonment for three years.

(3) Any person who fails or refuses to comply with any request made under Section 16 (a) by any public officer authorised by the Minister, or fails or refuses to answer any question by such public officer, or obstructs any such public officer from carrying out his functions under section 16, shall be liable, on summary conviction, to a fine of ten thousand dollars and to imprisonment for one year.

(4) Any person who is guilty of the contravention of any provision of this Act or any condition of the licence, for which no penalty has been specified by any other provision of this Act, shall be liable, on summary conviction to a fine of five thousand dollars and to imprisonment for one year.

18. (1) The Minister may make regulations for carrying out the purposes of this Act.

Power to
make
regulations.

(2) Without prejudice to the generality of the provisions of subsection (1), such regulations may in

particular, provide for all or any of the following matters:-

- (a) the forms of an application for a licence and of a licence;
- (b) the fees payable along with the application for a licence and for the grant of a licence;
- (c) the form of an application for renewal of a licence and the fees payable therefor;
- (d) the form of an application for the change of licensed premises and the fees payable along with it;
- (e) the conditions of a licence;
- (f) the particulars that an account to be kept by a licensee shall contain;
- (g) the particulars that a return under section 15 (2) shall contain;
- (h) any other matter that is required to be, or may be, prescribed by or under this Act.

Explanatory Memorandum

This Bill seeks to make provisions for the licensing of persons who are desirous of carrying on the business of buying and selling any foreign currency outside the scope of the Exchange Control Act, Cap 86:01. The provisions of the Bill are dealt with in the following paragraphs.

2. A licensee may carry on the above business only in the premises specified in the licence and if the licensee desires to change the licensed premises the approval of the Minister of Finance and an amendment of the licence would be necessary. (Clause 6).

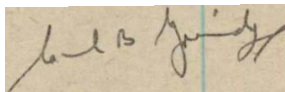
3. The whole or part of the foreign currency received as a result of the settlement of any monetary obligation or transaction in foreign currency in accordance with section 21 of the Bank of Guyana Act, Cap. 85:02, or which is required to be sold to an authorised dealer under section 25 (1) (c) of the Exchange Control Act, Cap. 86:01, or which is received by virtue of the provisions

contained in any other written law, like the Sale of Travel Tickets Act 1985 (No. 11 of 1985), cannot be sold to a licensee unless permitted by the Minister of Finance. A person having any foreign currency may in any other case sell the same to a licensee (See clause 2 (b) and 11 (1), (2) and (3)). A person may buy foreign currency from a licensee. (Clause 11 (4)). However, clause 11 (5) of the Bill confers power on the Minister to restrict the right of a licensee to sell foreign currency to a person only for specified purposes. A licensee is not bound to sell to an authorised dealer any foreign currency bought by the licensee under this legislation.

4. Under clause 9 (3) of the Bill the price of any foreign currency purchased or sold by a licensee is to be determined by the licensee.

5. The Bill also seeks to make provisions for connected matters like the maintenance of records, their examination by a public officer authorised by the Minister, submission of returns by licensees, penalties, etc.

6. The provisions of the Bill override the provisions of the Exchange Control Act and other written laws. (Clause 13).

A rectangular stamp containing a handwritten signature in dark ink. The signature is cursive and appears to read 'L. B. Jindal'.

Minister of Finance.