

**THE TRADING ACT, 1966**

No. 6



of 1966

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**AN ACT TO MAKE NEW PROVISION FOR TRADE LICENSING AND FOR MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH**

Date of Assent: 23rd December, 1966

Date of Commencement: 1st January, 1967

**PART I**

**Short Title and Commencement.**

1. This Act may be cited as the Trading Act, 1966, and shall come into operation on the 1st January, 1967.

**Interpretation.**

2. (1) In this Act, unless the context otherwise requires —  
“authorized officer” means —

(i) an administrative officer; or

(ii) a police officer; or

(iii) any person appointed as an authorised officer in pursuance of section 3 (2);

“certificate” means a certificate given in pursuance of section 10 or 15 authorising the issue or transfer of a licence;

“hawk” means to trade elsewhere than at fixed premises and otherwise than by public auction or by such a sale out of hand as is referred to in paragraph 2(2) of the First Schedule;

“licence officer” means one of the licence officers appointed in pursuance of section 3 (2);

“licensing authority” in relation to any licence means the licensing authority in respect of that licence determined in accordance with section 4;

h Act 55/64  
200.2  
“local authority” subject to the provisions of sub-section (2) means in relation to any district the ~~Town Council~~ or District Council whose area of jurisdiction includes that district and shall include a committee exercising the functions of a local authority under the provisions of sub-section (3);

“national licensing authority” means the licensing authority appointed in pursuance of section 3 (1);

“restricted to fixed premises” refers to any licence which in terms of the First Schedule is restricted to fixed premises;

“sell” means to sell by retail or wholesale and, in addition to its ordinary meaning means barter or exchange or offer or expose for sale ;

“trade” means to carry on the business of selling goods.

(2) Subject to the provisions of section 46(2) any reference in this Act to a local authority, town clerk or district council secretary shall, in relation to the Chobe district, have effect as a reference to the District Commissioner.

(3) A local authority may by directions in writing delegate its functions under this Act to such a committee as is referred to in sub-section (4).

(4) A committee to which functions are delegated in terms of subsection (3) shall consist of not less than five persons of whom not more than two may be persons who are not members of the local authority.

2A >

*Act 55/09 sec 3*  
**Appointment of Certain Officers.**

3. (1) The Minister shall, by notice in the *Gazette*, appoint a national licensing authority for the purposes of this Act.

(2) The Minister may, by notice in the *Gazette*, appoint any public officer or employee of a local authority to be an authorised officer for the purposes of this Act in addition to those officers referred to in paragraphs (i) and (ii) of the definition of “authorized officer”.

(3) The Minister for the time being responsible for finance shall, by notice in the *Gazette*, appoint a licence officer, for the purposes of this Act, in each district.

*A Act 39/70 sec 2*

**Licensing Authorities.**

4/ The licensing authority for —

(a) any licence restricted to fixed premises, other than a Banker licence, shall be the local authority for the district in which the licensed business is or is to be carried on ;

(b) any Banker licence, or any licence which is not restricted to fixed premises, shall be the national licensing authority.

*Act 55/09  
sec 4*

## PART II

### LICENCES

#### Licences Issuable Under This Act.

5. (1) The licences mentioned in the First Schedule shall be issuable under this Act.

(2) Subject to the provisions of this Act, no person shall trade, or carry on any business for which in terms of the First Schedule a licence is required, unless he is the holder of a valid licence of the kind required issued (or renewed) under this Act.

(3) Any person who contravenes the provisions of subsection (2) shall be guilty of an offence and liable on conviction to a fine not exceeding R500.

#### Period of Licences.

*2 1-6-66*  
*Am 55/69 sec 5* 6. Except as otherwise provided in the First Schedule, every licence issuable under this ~~Act~~ shall be an annual licence.

#### Applications for Licences.

7. (1) Any person who wishes to obtain a licence issued under this Act shall make application therefor in the prescribed form to a licence officer.

*5 Am 55/69 sec 6* (2) An application for ~~any~~ licence restricted to fixed premises shall be made to the licence officer for the district in which the licensed business is to be carried on. An application for any other kind of ~~licence~~ may be made to any licence officer.

(3) Every applicant shall produce to the licence officer a valid certificate by the licensing authority authorising the issue to the applicant of the licence applied for.

#### Issue of Licences.

8. (1) On application made in terms of section 7, and on payment of the fee specified in the Second Schedule, the licence officer shall issue the licence applied for to the applicant. Every such licence shall be in the prescribed form.

(2) Any licence issued without a certificate being produced as required by section 7 (3) shall be void and of no effect.

(3) When issuing a licence the licence officer shall insert such particulars and make such endorsements as may be specified, in terms of section 11, in the certificate authorising the issue

of the licence, and shall insert no other particulars and make no other endorsements.

(4) If a licence officer fails to make any entry on a licence which he is required to make in terms of the preceding subsection, such failure shall not relieve the holder of the licence from any obligation whatsoever which would have arisen if the entry had been duly made.

#### Applications for Certificates.

9. (1) Any person who wishes to obtain a certificate authorising the issue of a licence shall make application therefor in the prescribed form to the licensing authority concerned.

(2) Every such application shall contain such information and shall be accompanied by such documents, plans and specifications as may be prescribed.

#### Issue of Certificate.

10. (1) A licensing authority to whom such an application is made shall, subject to the provisions of subsections (2) and (3), issue the applicant the certificate applied for if, and shall not issue the certificate unless, it is satisfied —

(a) that the applicant is not debarred by law from obtaining such a licence;

(b) that, in the case of a licence restricted to fixed premises, the premises to which it is proposed to restrict the licence are suitable and properly sited, in accordance with the provisions of any law relating thereto, for the carrying on of the proposed business;

(2) A licensing authority may in its discretion refuse to issue a certificate to a person who —

(a) is a minor; or

(b) is an unrehabilitated insolvent; or

(c) has assigned his estate for the benefit of his creditors; or

(d) is unable to satisfy the licensing authority that he has made satisfactory provision for the keeping of proper books of account; or

(e) has, during the five years preceding the application, been convicted of any offence —

(i) under this Act; or

- (ii) under either of the laws repealed by section 48; or
- (iii) involving dishonesty; or
- (f) has, during the five years preceding the application, been sentenced to imprisonment without the option of a fine for a term of or exceeding six months.

(3) A licensing authority may in its discretion refuse to issue a certificate if in its opinion the issue of the licence concerned would be contrary to the public interest.

(4) Every certificate shall be in the prescribed form and shall be valid for a period of 3 months from the date of issue.

*(5) Added Act 39/70 sec 4 (6) Act 48/70 sec 2*

#### **Particulars and Endorsements to be Specified.**

11. (1) Every certificate shall specify what particulars shall be inserted in and what endorsements (if any) shall be made on the licence to be issued.

(2) No particulars or endorsements shall be so specified unless by virtue of any of the provisions of this Act or the regulations they may lawfully be inserted in or made on a licence of the kind to which the certificate relates.

#### **Procedure of Local Authority.**

*S. No. 57/08*

12. Where an application for a certificate is made to a local authority, then, subject to the provisions of the law under which that local authority is constituted, the local authority shall consider the application in accordance with the provisions of Part IV, and subject thereto may regulate its own procedure.

#### **Expiry, Renewal and Suspension of Licences.**

13. (1) Every annual licence shall, subject to the provisions of subsection (2), expire immediately after the 31st December of the year in which it is issued, but may be renewed on or before the 31st March of the following year, and the same provisions shall apply thereto as apply to the issue of such a licence save only that no certificate authorising the issue of the licence need be produced.

(2) Where any person who holds a valid annual licence on the 31st December in any year renews that licence on or before the 31st March of the following year, the former licence shall be deemed for the purposes of section 5 (2) to have continued in force until such renewal.

(3) Every licence other than an annual licence shall expire immediately after the last day in respect of which it is

issued and may be renewed only by the taking out of a new licence in accordance with the provisions of this Act.

*Amend* >

*Act 55 (69) no. 10*  
(4) Notwithstanding the provisions of subsections (1) and (3), the Minister may at any time suspend a licence issued under this Act if in his opinion a danger to public health would exist from the continued exercise thereof; and he may continue the suspension until the holder of the licence has complied to the satisfaction of the Minister with such requirements, designed to remove the danger, as he may specify.

#### **Cancellation of Licences.**

14. The holder of a licence issued (or renewed) under this Act who is convicted —

- (a) of giving short change, short measure or short weight, or of any offence under this Act; or
- (b) of any offence mentioned in Chapter XXXI or Chapter XXXVIII of the Penal Code; or
- (c) of an offence under the Trade Marks Proclamation (Cap. 153) or the Patents and Designs Protection Proclamation (Cap. 155);

shall, in addition to any penalty to which he may otherwise be liable, be liable in the discretion of the court to have his licence cancelled with effect from such date as the court may consider necessary to enable him to dispose of his existing stocks, and to be debarred from obtaining another licence for such period as the court may determine.

#### **Transfer of Licences.**

15. (1) A licence restricted to fixed premises may, by endorsement of the licence officer, and on payment of a fee of one rand, be transferred to different premises.

(2) Any licence issued (or renewed) under this Act may, by endorsement of the licence officer, and on payment of a fee of one rand, be transferred to a different holder.

(3) No licence shall be endorsed in terms of subsection (1) or subsection (2) unless the holder of the licence produces a valid certificate by the licensing authority authorising the transfer. The provisions of sections 9, 10 and 11 shall have effect in relation to an application for such a certificate as they have in relation to an application for a certificate authorising the issue of a licence.

**Issue of Duplicate Licences.**

16. A licence officer, on being satisfied that a licence issued by him has been lost or destroyed, and on payment of a fee of fifty cents, shall issue a duplicate licence to the licensee.

**Alteration of Partnership.**

17. (1) If one or more partners of a partnership which holds a licence retires therefrom or dies before the expiration of the licence, the remaining partner or partners may for the unexpired period covered by the licence carry on business thereunder.

(2) Any other change in the membership of a partnership shall immediately necessitate the transfer of the licence to the new partnership in terms of section 15 (2) and (3).

**Continuation of Licence in Event of Death, etc.**

18. In any of the cases mentioned in the first column hereunder the persons set opposite thereto in the second column hereunder may, for the unexpired period covered by the licence, carry on business thereunder. Any renewal thereof required for the proper completion of the duties of the representative concerned shall be issued in the name of the representative in his capacity as such, but shall not be regarded as a transfer of the licence in terms of section 15 (2):

- |   |  |
|---|--|
| (a) Death of a licensee.  | The legal representative of the deceased person.             |
| (b) Insolvency or assignment of the estate of a licensee.                             | The trustee or assignee.                                     |
| (c) Where a licensee comes under any other civil disability.                          | Any <i>curator bonis</i> appointed under any order of court. |
| (d) Liquidation or judicial management of a company which is the holder of a licence. | The liquidator or judicial manager, as the case may be.      |

**PART III**

**CONDUCT OF LICENSED BUSINESSES**

**Appointment of Manager.**

19. (1) Except where the holder of a licence restricted to fixed premises conducts the licensed business personally, he

shall appoint an approved person to be manager of the business.

(2) A person shall be an approved person for the purposes of this section if he is not disqualified under subsection (6) or if, being so disqualified, his appointment is approved by the local authority acting in its discretion.

(3) An approval of an appointment in terms of this section shall lapse if the approved person is convicted of an offence mentioned in subsection (6).

(4) Every application for the approval of an appointment in terms of this section shall be in the prescribed form.

(5) Every such application shall be made and signed by the person to whose appointment the application relates.

(6) A person shall be disqualified for the purposes of this section if he —

(a) is a minor; or

(b) has during the preceding five years been convicted of any offence —

(i) under this Act; or

(ii) under either of the laws repealed by section 48; or

(iii) involving dishonesty; or

(c) has, during the preceding five years been sentenced to imprisonment without the option of a fine for a term of or exceeding six months; or

(7) For the purposes of this section, a licensee shall not be deemed to conduct the business thereunder personally, and the person appointed as manager shall not be deemed to be manager of the business, unless such licensee or such person, as the case may be, visits the business premises daily and takes charge of the business.

Provided that the licensee or the manager of a business may absent himself from the business premises for a reasonable period for the purposes of business or of taking leave.

#### **Licence Restricted to Fixed Premises.**

20. (1) Where a licence is restricted to fixed premises the holder shall not carry on the licensed business elsewhere than at the premises specified in the licence except to such extent as is permitted by the relevant provisions of the First Schedule.

(2) Nothing in this section shall be deemed to prevent —

- (a) the use of separate premises purely for the purpose of storing goods forming part of the stock-in-trade of the licensed business ; or
- (b) the receipt of orders or the delivery of goods elsewhere than at the specified premises where it is a condition of the sale that delivery is to be effected from such premises ; or
- (c) the carrying on of hawking in conjunction with the licensed business to such extent as may be authorised by or under any bye-laws for the time being in force.

**Transfer of Licence Prohibited.**

21. Save as otherwise provided in this Act, no licence may be hired, lent, ceded, transferred or in any way whatsoever made over to any other person.

**Licence to be Produced for Inspection.**

22. Every licensee shall produce his licence for inspection by any authorised officer on reasonable notice being given to him.

**Books to be Kept.**

23. Every licensee shall keep such books as may be prescribed.

**Signboard to be Exhibited.**

24. The holder of a licence restricted to fixed premises shall exhibit at the licensed premises a signboard or nameplate bearing in legible characters the name or style under which he carries on business.

**Notice of Intention to Alter Style of or to Transfer a Business to be Advertised.**

25. (1) Whenever the holder of a licence restricted to fixed premises —

- (a) alters the name or style of the licensed business ; or
- (b) sells or alienates his licensed business to some other person ; or
- (c) sells or alienates the good-will, book-debts or assets of his licensed business other than by the selling of stock in the ordinary course of business ;

notice of the alteration, alienation or sale shall be advertised

twice in the *Gazette* and twice in a newspaper circulating in the district in which the licensed business is carried on. Save where the advertisement relates solely to an alteration in the name or style of the licensed business, it shall be deemed to be, and shall have effect as, an advertisement published in accordance with section 34 (1) of the Insolvency Proclamation (Cap. 82).

(2) In any case referred to in paragraph (a) of the preceding subsection, the licence officer, if satisfied that the provisions of that subsection have been complied with, shall endorse on the licence the alteration in the name or style under which the business is to be carried on.

#### **Certain Agreements to be Voidable as Against Creditors.**

26. Every agreement to —

- (a) sell or alienate his licensed business to some other person; or
- (b) sell or alienate the good-will, book-debts or assets of his licensed business other than by the selling of stock in the ordinary course of business; or
- (c) re-constitute any business;

shall, unless the provisions of section 25 have been complied with, be voidable as against creditors of the business for a period of six months from the date of the transfer or sale.

#### **Power of Entry.**

27. (1) Any authorised officer may enter any premises in respect of which a licence has been issued, and may require to be furnished with such information as will enable him to determine whether or not the provisions of this Act are being complied with.

(2) Any administrative officer or police officer may enter any premises in respect of which a licence has not been issued but in which he has good reason to suspect that trading is carried on in contravention of the provisions of this Act, and may require to be furnished with any information he may deem to be necessary.

#### **Offences.**

28. Any person who —

- (a) carries on business contrary to section 19; or
- (b) carries on business contrary to section 20; or
- (c) fails to produce his licence when notice has been given to him to do so under section 22; or

- (d) fails to keep the books required to be kept under section 23; or
  - (e) fails to exhibit a signboard or nameplate in terms of section 24; or
  - (f) contravenes section 25; or
  - (g) fails to furnish any information required from him under section 27; or
  - (h) obstructs or hinders any administrative officer or police officer in the exercise of his duties under this Act;
- ↓ Add Act 55/69 sec 3
- shall be guilty of an offence and liable to a fine not exceeding R200.

#### PART IV

Act 55/69 sec 11

#### PROCEDURE OF LOCAL AUTHORITIES<sup>IN</sup> CONSIDERING APPLICATIONS FOR CERTIFICATES

##### Meetings of Local Authority.

Act 55/69 sec 12

29. (1) Every local authority<sup>^</sup> shall, if there is business to despatch, meet at least once in each month of the year for the consideration of applications for certificates under this Act.

(2) Every local authority<sup>^</sup> shall publish a notice in the *Gazette* notifying the date and time of the meetings to be held for the consideration of applications.

##### Member of Licensing Authority not to sit on any Matter in Which he is Personally Interested.

Act 55/69 sec 13

30. (1) No person shall sit as a member of a local authority<sup>^</sup> on the hearing of any application in which he is personally interested, directly or indirectly, or which his wife, partner, or relative, within the first degree of consanguinity or affinity, is directly or indirectly interested, or in which any company of which he is a director, manager, officer, employee, or agent is directly or indirectly interested.

(2) The fact that a person is the holder of a licence shall not itself disqualify him from sitting as a member of a local authority<sup>^</sup> at such a hearing.

##### Evidence on Oath.

Act 55/69 sec 14

31. (1) When a local authority deems it necessary to take evidence respecting any question to be determined by it, such

evidence shall be given on oath to be administered by the person presiding at the meeting, and shall be recorded.

(2) A local authority may by written notice under the hand of the town clerk, or district council secretary, as the case may be, require the attendance before it of any person who in the opinion of the local authority is able to testify as to any matter which the licensing authority has to determine.

(3) Any person who refuses or fails without sufficient excuse to attend and give evidence before a licensing authority at the time and place specified in the notice given under subsection (2), shall be guilty of an offence and liable to a fine not exceeding R50.

(4) If any person after being duly sworn gives false evidence before a local authority on any matter relevant to the question under enquiry by such licensing authority, knowing such evidence to be false or not knowing or believing it to be true, he shall be guilty of an offence and liable to a fine not exceeding R200 or to imprisonment for a period not exceeding twelve months.

#### **Record of Licensing Authority's Proceedings.** *Act 55/64 sec 15*

32. A record of the public proceedings of a local authority at every meeting held in pursuance of this Part shall be kept and shall be filed in the office of the local authority. Such record shall be open for inspection of the public on payment to the local authority of such fees as may be prescribed.

#### **Publication of Application.** *Act 55/64 sec 16*

33. (1) Every applicant for a certificate to be given by a local authority shall at his own expense publish in two separate issues of the *Gazette* and of a newspaper circulating in the district in which his business is or is to be carried on, the date of the last publication being not less than fourteen days before the date of the meeting at which the application is to be heard, a notice giving such particulars as may be prescribed.

(2) No application for a certificate shall be considered by a local authority except on proof that the applicant has given the notice required by subsection (1).

(3) If any person who has given the notice required by subsection (1) fails to lodge with the licensing authority a written application within seven days of the last publication of his notice, or if any application is not proceeded with by the applicant on the day for which notice has been given, such notice shall be considered as withdrawn and fresh notice shall be given before any such application may be considered.

**Lodging of Objections.** *Act 55/59 sec. 17*

34. (1) Any person desirous of objecting to the granting of any certificate of which notice of application has been given in terms of section 33, shall, within seven days of the last publication of such notice, give notice in writing to the local authority<sup>^</sup> of his intention to oppose such application and shall state the grounds upon which his objection is based.

(2) Upon receipt of such notice of objection, the licensing authority shall inform the applicant of the fact and the grounds of the objection.

**Licensing Authority May Seek Reports on Applications.**

35. (1) The ~~licensing~~<sup>*Act 55/59 sec. 18*</sup> authority may refer any application for a certificate to any member of the public service, any police officer, any local authority, or any other person for a report on any matter arising out of the application.

(2) Any report received in terms of this section shall be open to the inspection of the applicant or of any person entitled to lodge an objection to the application at the office of the local authority<sup>^</sup> who shall at any time before the consideration of the application allow such applicant or his agent or any such person or his agent to take a copy of such report.

**Hearing of Applications.** *Act 55/59 sec. 19*

36. (1) At the hearing of any application by the local authority<sup>^</sup>, the applicant may appear before the local authority<sup>^</sup> personally or by counsel or attorney.

(2) Any person who has lodged an objection under section 34 may appear before the local authority<sup>^</sup> personally or by counsel or attorney to object to the granting of the application against which he has lodged an objection.

(3) The local authority<sup>^</sup> may, in its absolute discretion, hear any objection to an application, notwithstanding that notice of such objection has not been given in terms of section 34, but, in the event of its doing so, it shall allow the applicant reasonable opportunity of answering the objection so made and shall, if necessary, adjourn the meeting for the purpose.

(4) Any person who has made a report in terms of section 35 may be called as witness by the applicant concerned for the purpose of cross-examination as to such report and such person whether so called or not, shall have the right to call evidence or present arguments in support of that report.

(5) A local authority shall give its decision on any application within a period of one month from the date of the hearing thereof.

**Power of Licensing Authority to Take Notice of Objection.**

37. (1) The local authority<sup>Act 55/69 sec 21</sup> may of its own motion take notice of any matter or thing whatsoever which in its opinion would be an objection to the granting of any application for a certificate although no objection has been made thereto by any person.

(2) The local authority<sup>Act 55/69 sec 21</sup> shall inform the applicant of such matter or thing and shall adjourn further consideration of the application, if the applicant so request, for any period not being less than four days in order that the person affected by the objection may have an opportunity of replying thereto.

(3) The local authority<sup>Act 55/69 sec 21</sup> shall at or forthwith after such adjournment give notice in writing of the grounds of objection to the person affected thereby and of the day on which the application will be further considered.

**Licensing Authority to Refuse to Hear Application Where Approval etc. Required.**

38. In the case of an application where the business for which a licence is sought is one in respect of which the applicant is required under the provisions of any other law to obtain the approval of or registration with any authority to comply with any formalities before he is permitted to carry on such business, the local authority<sup>Act 55/69 sec 21</sup> shall refuse to hear the application until the applicant produces proof to its satisfaction that he has obtained such approval or registration or has complied with such formalities, as the case may be.

**Licences in Respect of Premises on Tribal Territory.**

39. In the case of an application<sup>Act 55/69 sec 22</sup> where the premises to which it is proposed to restrict the licence are situated on tribal territory, the local authority<sup>Act 55/69 sec 22</sup> shall refuse to hear the application until the applicant produces proof to its satisfaction that the applicant is entitled or has applied for the right to occupy the site of such premises.

**Conditional Grant of Certificate.**

40. (1) In the case of an application<sup>Act 55/69 sec 23</sup> where the premises to which it is proposed to restrict the licence are not erected or, if already erected, require in the opinion of the local authority additions or alterations to make them suitable as premises for

the business sought to be licensed, the local authority, if satisfied that —

- (a) it would be competent if the premises were completed at the date of the consideration of the application to grant a certificate ;
- (b) it is *bona fide* the intention of the applicant if the application is granted to complete the erection, addition to or alteration of the premises within six months from the date of the grant of the application or such longer period as the licensing authority may determine ;
- (c) the premises when completed will be suitable in all respects as premises of the licensed business ; and
- (d) generally it is desirable that the licence should be granted in respect of the premises ;

may issue to the applicant a conditional certificate for a licence in respect of such premises or for the removal of a licence to such premises.

(2) If the town clerk or district council secretary, as the case may be, endorses upon a conditional certificate granted under subsection (1) a statement that the premises to which such conditional certificate refers have been completed substantially in accordance with the plans produced to the local authority in support of the application and are in his opinion in a suitable condition for occupation as premises of the business, that conditional certificate shall be deemed to be a certificate granted by the local authority.

(3) A conditional certificate shall not be a certificate for the purposes of this Act except in the circumstances described in subsection (2).

## PART V

### APPEAL AND SUPPLEMENTARY

#### **Appeal.**

41. Any person aggrieved by any decision of a licensing authority not to issue a certificate, or not to approve a manager in terms of section 19, may appeal to the Minister, whose decision shall be final.

#### **Business for Which Licence Not Required.**

42. Any person carrying on any of the businesses referred to in the first column hereunder shall not merely by reason of sel-

ling the goods set opposite thereto in the second column hereunder in the course of such business and on the premises on which such business is carried on require any licence under this Act :

- |   |  |
|---|--|
| (a) Farmer, stock raiser, market gardener or dairyman   | Any produce of such business (other than fresh meat)       |
| (b) Manufacturer  | Any manufactures of such business                          |
| (c) Miner   | Any minerals won in the carrying on of such business       |
| (d) Any business referred to in paragraph 2 (3) of the First Schedule   | Any goods permitted to be sold by virtue of such paragraph |
| (e) Any business (including a club) licensed under the Liquor Proclamation 1960 (No. 69 of 1960)  | Any goods permitted to be sold by virtue of such licence   |
| (f) Any business in respect of which a licence is required to be taken out under any other law for the time being in force, to which the Minister, by notice in the <i>Gazette</i> , has extended the provisions of this section. | Any goods permitted to be sold by virtue of such licence.  |

#### **Position of Employees.**

43. Except where it is otherwise expressly provided by this Act, no person shall be required to hold a licence for the purpose of carrying on any business as the employee of any other person, if such other person holds or is exempted from holding a licence in respect of such business.

#### **Exemptions.**

44. (1) The Minister may exempt any person from the provisions of sections 5 (2), 7 (3) or 46 if in the opinion of the Minister it is desirable in the interest of the public or of any section of the public that such exemption shall be granted.

(2) Without prejudice to the generality of the preceding provisions, exemption may be granted under this section to col-

porteurs and to charitable, religious and educational institutions.

(3) The Minister may at any time withdraw any exemption granted under this section.

#### **Licences Under Other Laws Still Required.**

45. Nothing in this Act shall entitle the holder of a licence under this Act to sell any article or substance or do anything for the sale or doing of which a separate licence is required by any other law for the time being in force.

#### **Hawking.**

46. (1) No person shall hawk in any district except to such extent as may be authorised by or under any bye-laws made by the local authority for that district in accordance with the provisions of the law under which it is constituted.

(2) In this section "local authority" means, in relation to the Chobe district, the District Council whose area of jurisdiction includes that district.

(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R400.

#### **Regulations.**

47. The Minister may make regulations —

- (a) prescribing anything which in terms of this Act is to or may be prescribed;
- (b) prescribing the fees or allowances payable to a witness summoned to appear before the local authority in terms of section 31 (2);
- (c) generally for the better carrying out of the provisions of this Act.

#### **Repeals and Savings.**

48. (1) The Trading Proclamation (Cap. 108) and the Trading (Gaberones Township) Law, 1964 (No. 17 of 1964) are repealed.

(2) Any annual licence issued (or renewed) under either of the laws repealed by subsection (1) which was in force immediately prior to the commencement of this Act shall have effect, for the purposes of renewal, as a corresponding licence issued under this Act.

(3) A person who has published a notice in the *Gazette* prior to the 3rd December, 1966, in the form and manner prescribed in the Third Schedule to the Trading Proclamation, in pursuance of an application for a licence under that Proclamation shall, if the date appointed for the hearing of the application was on or after the date of commencement of this Act, be deemed to have complied with the provisions of section 33 (1) of this Act in relation to a corresponding licence issuable under this Act; and for the purposes of sections 33 (3) and 34 (1), the last publication of a notice under section 33 (1) in respect thereof shall be deemed to have taken place on the date of commencement of this Act.

(4) For the purposes of this section the licences mentioned in the second column hereunder shall be deemed to be licences corresponding to the licences set opposite thereto in the first such column —

1.	2.
<i>Licences issued (or renewed) under the Trading Proclamation</i>	<i>Corresponding Licence under this Act</i>
(a) Agent	Agent
(b) Auctioneer	Auctioneer
(c) Baker	Fresh Produce
(d) Banker	Banker
(e) Butcher	<del>Butcher</del>
(f) Chemist	Chemist
(g) Driller	Driller
(h) External Agent	External Representa- tive
(i) General Dealer	(1) General trading ; or (2) Small general tra- ding ; or (3) Fresh produce ; or (4) Either (1) or (2) together with (3) ; or (5) Provided that the licence was en- dorsed under <i>Item</i> 16 (3) of Part II of the First Sche- dule to the Trading

Proclamation, either  
(1), (2), (3) or (4)  
together with Petrol  
Filling Station.

(j) Hairdressing Saloon	Hairdresser
(k) Insurance Agent	Insurance Agent
(l) Motor Garage	(1) General trading ; or (2) Small general trading ; or (3) Petrol Filling Station ; or (4) Either (1) or (2) together with (3).
(m) Petrol Filling Station	Petrol Filling Station
(n) Produce Buyer	Produce Buyer
(o) Restaurant	(1) Restaurant ; or (2) Fresh produce ; or (3) Both (1) and (2).
(p) Restricted Dealer	(1) General trading ; or (2) Small general trading ; or (3) Fresh Produce ; or (4) Either (1) or (2) together with (3).
(q) Tobacconist	Small general trading
(r) Wholesale	(1) Wholesaler ; or (2) General trading ; or (3) Small general trading ; or (4) Either (2) or (3) together with (1).
Any licence issued (or renewed) under the Trading (Gaberones Township) Law, 1964	Any one or more of the following licences — Chemist, Fresh produce, General trading, Small general trading, Hairdresser, Petrol filling station, Restaurant, Wholesaler.

## FIRST SCHEDULE

(section 5)

### Licences Issuable Under This Act

#### **Agent Licence.**

1. (1) Subject to the provisions of paragraphs (2) and (3), any person who carries on the business –

- (a) of negotiating contracts between other persons in matters of trade or commerce otherwise than as employee of any of the parties concerned; or
- (b) of undertaking the administration of deceased estates or the trusteeship of insolvent estates;

shall require an agent licence.

(2) The provisions of subparagraph (1) shall not apply to –

- (a) a legal practitioner in respect of acts done in his professional capacity;
- (b) the holder of an external representative licence in respect of transactions covered by that licence;
- (c) the holder of a travel agent licence in respect of transactions covered by that licence.

(3) the provisions of subparagraph (1)(b) shall not apply to the holder of a banker licence.

#### **Auctioneer Licence.**

2. (1) Subject to the provisions of subparagraph (3), any person who, whether on his own account or as the employee or agent of any other person, conducts any public auction sale shall require an auctioneer licence.

(2) The holder of an auctioneer licence shall be entitled to sell any goods, subject to the provisions of section 45, by public auction, and, on the same day and at the same place as a public auction sale, to sell out of hand any such goods which were offered for sale by him at such auction sale but remain unsold.

(3) The provisions of subparagraph (1) shall not apply to –

- (a) any employee of the holder of an auctioneer licence,

whose name is endorsed on such licence, in respect of any such sale as is referred to in subparagraph (2) carried out on behalf of the holder of the licence ;

- (b) any other employee of the holder of an auctioneer licence in respect of any such sale as is referred to in subparagraph (2), other than a sale by auction, carried out on behalf of the holder of the licence ;
- (c) any duly appointed marketmaster or deputy marketmaster in respect of any such sale as is referred to in subparagraph (2) ;
- (d) any other person in respect of any such sale as is referred to in subparagraph (2) which he is authorised or required to undertake by virtue of any written law ;
- (e) any judicial sale.

(4) An auctioneer licence may be either an annual licence or a 7 day licence.

#### **Banker Licence.**

3. (1) Any person who carries on the business of a banker shall require a banker licence.

(2) A banker licence shall be restricted to the fixed premises specified therein, but shall cover the carrying on of the licensed business at any other fixed premises of the licensee at which business is transacted on not more than three days in each week and which is situated either in the same district as the specified premises or in a district adjoining thereto, and any mobile office of the licensee, wherever it is employed, if it is ordinarily based on such specified premises.

#### **Chemist Licence.**

3. (1) Subject to the provisions of subparagraph (3), any person who carries on the business of selling medicines or drugs shall require a chemist licence.

(2) The holder of a chemist licence shall also be entitled to sell chemicals, chemical preparations, surgical goods, toilet goods, photographic and optical goods, stationery, books, ceramic and glass ware, jewellery, leather goods, fancy goods, toys and invalid and infant foods.

(3) The provisions of subparagraph (1) shall not apply to the holder of any other type of licence in respect of the sale of medicines or drugs in accordance with the provisions of section 10 of the Medical, Dental and Pharmacy Proclamation (Cap.147).

(4) A chemist licence shall, subject to the provisions of section 20 (2), be restricted to the fixed premises specified therein.

#### **Driller Licence.**

5. Any person who carries on the business of drilling for water for hire or reward shall require a driller licence.

#### **External Representative Licence**

6. (1) subject to the provisions of subparagraph (3), any person who, whether on his own account or as the employee or agent of any other person, carries on the business of soliciting or receiving orders for the purchase of goods, where it is a condition of the sale that delivery is to be effected from a place outside Botswana, shall require an external representative licence.

(2) If such a licence is issued -

(a) to an individual who is ordinarily resident in Botswana and who has been so resident for the preceding 12 months;

or

(b) to a partnership where at least one of the partners is such an individual; or

(c) to a company which is registered in Botswana (otherwise than an external company);

it shall be issued as a resident's licence and if such a licence is issued to any other person it shall be issued as a non-resident's licence.

(3) The provisions of subparagraph (1) shall not apply to any employee of the holder of an external representative licence if his name is endorsed on and he is in possession of the licence. For the purposes of this subparagraph any number of employers' names may be endorsed on an external representative licence.

#### **Fresh Produce Licence.**

7. (1) Subject to the provisions of subparagraph (4), any person who, in any shop, store or other fixed place of business, carries on the business of selling any fresh produce shall require a fresh produce licence.

(2) For the purposes of this paragraph "fresh produce" means bread and fresh milk, meat, fish, vegetables and fruit.

(3) The holder of a fresh produce licence shall also be entitled to sell flowers, and any goods, in addition to the goods mentioned in subparagraph (2), which may be used for human consumption without further preparation.

(4) The provisions of subparagraph (1) shall not apply to the holder of a restaurant licence in respect of transactions covered by that licence.

(5) A fresh produce licence shall, subject to the provisions of section 20 (2), be restricted to the fixed premises specified therein.

#### **General Trading and Small General Trading Licenses.**

7 8. (1) The holder of a general trading licence or small general trading licence shall, subject to the provisions of section 45, be entitled —

(a) to trade in any goods other than those for which in terms of this Schedule a chemist, fresh produce, petrol filling station or restaurant licence is required; and

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(b) to carry on the businesses referred to in paragraphs ~~10(1)~~ and 13 (1) of this Schedule.

(2) A small general trading licence shall only be valid where the value of the stock-in-trade of the licensed business (excluding stock-in-trade consisting of printed publications) does not at any time during the term of the licence exceed R500.

(3) A general trading licence or small general trading licence shall, subject to the provisions of section 20 (2), be restricted to the fixed premises specified in the licence and, in respect of the businesses referred to in subparagraph (1) (b), such other places within the same district as may also be specified therein.

#### **Hairdresser Licence.**

8 9. (1) Subject to the provisions of subparagraph (3), any person who in any saloon or other fixed place of business (other than a private dwelling house) carries on the business of hairdresser shall require a hairdresser licence.

(2) The holder of a hairdresser licence shall be entitled to sell toilet goods.

(3) The provisions of subparagraph (1) shall not apply to the holder of a general trading or small general trading licence in respect of hairdressing carried on at the licensed premises.

(4) A hairdresser licence shall, subject to the provisions of section 20 (2), be restricted to the fixed premises specified therein.

**Hide and Skin Buyer Licence.**

*Deleted Act 34/2011 s 5*

10. (1) Subject to the provisions of paragraph 8 (1), any person who carries on the business of purchasing the hides or skins of domestic animals, whether green or dried, shall require a hide and skin buyer licence.

(2) A hide and skin buyer licence shall, subject to the provisions of section 20 (2), be restricted to the fixed premises and such other places within the same district as may be specified therein.

**Insurance Agent.**

11. (1) Subject to the provisions of subparagraph (2), any person who, whether on his own account or as the employee or agent of any other person, carries on the business of obtaining or attempting to obtain proposals for insurance or assurance, shall require an insurance agent licence.

(2) The provisions of subparagraph (1) shall not apply to any employee of the holder of an insurance agent licence in respect of obtaining or attempting to obtain proposals for insurance or assurance at any business premises of such holder.

**Petrol Filling Station Licence.**

12. (1) Any person who carries on the business of selling petrol or diesel fuel from a pump shall require a petrol filling station licence.

(2) The holder of a petrol filling station licence shall be entitled thereby also to sell petrol or diesel fuel in other ways and to sell lubricants and aerated and mineral waters. He shall also be entitled thereby to sell motor vehicle accessories if his stock-in-trade of such accessories does not exceed R500.

(3) A petrol filling station licence shall, subject to the provisions of section 20 (2), be restricted to the fixed premises specified therein.

**Produce Buyer Licence.**

13. (1) Subject to the provisions of paragraph 8 (1), any person who carries on the business of purchasing grains and pulses for the purpose of resale, otherwise than from persons

licensed under this Act to sell such goods, shall require a produce buyers licence.

(2) A produce buyer licence shall, subject to the provisions of section 20 (2), be restricted to the fixed premises and such other places within the same district as may be specified therein.

#### **Restaurant Licence.**

12. 14. (1) Subject to the provisions of subparagraph (3), any person who, at any restaurant, cafe or other fixed place of business, carries on the business of selling meals or refreshment for consumption on or by the premises, shall require a restaurant licence.

A Act 34/70 sec 5  
(2) The holder of a restaurant licence shall also be entitled to sell reading matter, tobacco, matches and smoker's requisites, and foods, ~~other than fresh meat, which may be used for human consumption without further preparation.~~

(3) The provisions of subparagraph (1) shall not apply to —

(a) the holder of any licence issued under the Liquor Proclamation, 1960 (No. 69 of 1960) in respect of transactions at the licensed premises ;

(b) the sale of meals or refreshment at a boarding house to persons residing therein.

(4) A restaurant licence shall, subject to the provisions of section 20 (2), be restricted to the fixed premises specified therein.

#### **Travel Agent Licence.**

13. 15. (1) No person shall carry on the business of receiving orders or bookings for journeys or passages by land, sea or air, otherwise than by transport operated by himself or an associate operator, unless he holds a travel agent licence.

(2) The holder of a travel agent licence shall be entitled thereby to sell overnight bags, travel books and souvenirs of transportation.

(3) A travel agent licence shall, subject to the provisions of section 20 (2), be restricted to the fixed premises specified therein.

**Wholesaler Licence.**

16. (1) The holder of a wholesaler licence shall, subject to the provisions of section 45, be entitled to carry on the business of selling to retailers any goods other than those for which in terms of this Schedule a chemist, fresh produce, petrol filling station or restaurant licence is required.

(2) A wholesaler licence shall, subject to the provisions of section 20 (2), be restricted to the fixed premises specified in the licence.

*[Faint handwritten notes and scribbles]*

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**SECOND SCHEDULE**  
(section 8 (1))

**Licence Fees**

<i>Licence</i>	<i>Fee</i>
Agent .....	R 20
Auctioneer (7 days) .....	R 10
(annual) .....	R 80
Banker .....	R200
Chemist .....	R 50
Driller .....	R 20
External Representative	
(resident) .....	R 20
(non-resident) .....	R100
Fresh Produce .....	R 15
General Trading .....	R100
Hairdresser .....	R 10
Hide and Skin Buyer .....	R100
Insurance Agent .....	R 20
Petrol Filling Station .....	R 10
Produce Buyer .....	R 30
Restaurant .....	R 10
Small General Trading .....	R 20
Travel Agent .....	R100
Wholesaler .....	R 80

NOTE: The fee for an annual licence issued on or after the 1st July in any year shall be one half of the fee shown in the above table.

Passed by the National Assembly this day, the 14th December, 1966.

G.T. MATENGE.