

Statutory Instrument No. 75 of 1967

**THE LOCAL GOVERNMENT (DISTRICT COUNCILS)
LAW, 1965**

HAWKING (MODEL) BYE-LAWS, 1967
(Published on 29th December, 1967)

In exercise of the powers vested in him by section 36 (1) of the Local Government (District Councils) Law, 1965 (No. 35 of 1965) the Minister of Local Government and Lands hereby makes the following model bye-laws —

Title

1. These bye-laws may be cited as the Hawking (Model) Bye-Laws, 1967.

Interpretation

2. In these bye-laws, unless the context otherwise requires —

“Council” means any District Council which has adopted these bye-laws ;

“Council officer” means and includes Chairman, Secretary Assistant Secretary, Treasurer, Senior Revenue Officer, Revenue Collectors and Chairman of the Trade Licensing Committee ;

“district” means the area of a District Council as defined by the order establishing such Council ;

“general trader” includes small general trader ;

“hawker” means any person who hawks within the meaning of the Trading Act ;

“licensing authority” means the Council or any committee convened by the Council to perform its functions under these bye-laws and in the case of the Chobe District means the District Commissioner ;

“licensing officer” means a licensing officer appointed by the Council for the purposes of these bye-laws ;

“Trading Act” means the Trading Act, 1966 (No. 6 of 1966) or any Act substituted therefor.

Licence Required to carry on Hawker's Business

3. A person may hawk in the district if and only if he is the holder of a valid hawker's licence issued (or renewed) by the licensing authority:

Provided that a person, and members of the immediate family of such person, hawking agricultural or horticultural produce grown by him within the Council area, or eggs from hens kept within the Council area, may do so without a hawker's licence.

Period of Hawker's Licence

4. All hawker's licences issued by the licensing officer shall be quarterly licences.

Applications for Hawker's Licence

5. Any person who wishes to obtain a hawker's licence shall make application therefor to the licensing officer

Issue of Hawker's Licence

6. (1) A licensing officer to whom such an application is made shall if authorised to do so by the licensing authority, issue the applicant a licence on payment of a fee of R12.

(2) The licensing authority may in its discretion refuse to authorise the issue of a licence 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 accounts ; or
- (e) has, during the five years preceding the application, been convicted of any offence —
 - (i) under the Trading Act or these bye-laws ; or
 - (ii) under any law repealed by the said Act ; 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) The licensing authority may in its discretion direct that a hawker's licence should not be issued if in its opinion the issue of a licence would be contrary to the public interest.

Issue of Duplicate Licence

7. The Council Treasurer, on being satisfied that a hawker's 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 hawker.

Procedure of Licensing Authority

8. Where an application for a licence is made in terms of bye-law 5 the licensing authority shall consider the application *mutatis mutandis* in accordance with the provisions of Part IV of the Trading Act, and subject thereto may regulate its own procedure.

Hawker Entitled to Sell Goods of a Certain Kind

9. The holder of a hawker's licence shall be entitled thereby to sell any goods which he would be permitted to sell if he were the holder of a general trading licence and fresh produce licence in terms of the Trading Act.

Conditions of Hawker's Licence

10. A hawker's licence may be issued subject to such conditions as the Council may, by bye-law, prescribe.

Area for which Hawker's Licence is Valid

11. (1) The licensing authority may at its discretion limit the area within which a hawker's licence is valid. If the licensing authority exercises this discretion hawking by the licensee or his agent shall be limited accordingly to the area allocated by the licensing authority.

(2) All hawker's licences shall be endorsed by the licensing officer to show the area for which they are valid.

(3) Any person who hawks outside the area allocated to him in terms of this bye-law shall be guilty of an offence and liable on conviction to a fine not exceeding R100.

Cancellation of Licences

12. The holder of a hawker's licence who is convicted —

- (a) of giving short change, short measure or short weight or of any offence under the Trading Act or these bye-laws; 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 or the Patents and Designs Protection Proclamation (Chapter 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 Licence Prohibited

13. A hawker's licence is not transferrable except that the provisions of section 18 of the Trading Act shall otherwise apply *mutatis mutandis*.

Licence to be Produced for Inspection

14. (1) Every licensee shall produce his licence for inspection on demand by any administrative, police or Council officer.

(2) Any person who fails to comply with the provisions of sub-bye-law (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R100.

Appeal

15. Any person aggrieved by any decision of the licensing authority may appeal to the Minister whose decision shall be final.

M.T.M. KGOPO,
Permanent Secretary.

Ministry of Local Government and Lands,
GABERONES.
18th December, 1967.