

Statutory Instrument No. 59 of 1985

LOCAL GOVERNMENT (DISTRICT COUNCILS) ACT
(Cap. 40:01)

HAWKING AND STREET-VENDING (MODEL) BYE-LAWS, 1985
(Published on 3rd May, 1985)

ARRANGEMENT OF BYE-LAWS

BYE-LAW

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SCHEDULE

IN EXERCISE of the powers conferred on the Minister of Local Government and Lands by section 36 of the Local Government (District Councils) Act, the following Bye-Laws are hereby made. —

- Citation 1. These Bye-Laws may be cited as the Hawking and Street-Vending Bye-Laws, 1985.
- Inter-pretation 2. In these Bye-Laws, unless the context otherwise requires —
“certificate” means a certificate of registration issued under bye-law 4;
“council” means the District Council which has adopted these Bye-Laws;
“council area” means the area under the jurisdiction of the council;
“council officer” means the Council Secretary, the Treasurer and any employee of the council duly authorised by the Council Secretary in writing;
- Cap. 43:02 “hawker” means a person who, otherwise than a street vendor, hawks within the meaning of that term as defined in the Trading Act;
“Licensing Authority” means the council or any committee convened by the council to perform its functions under these Bye-Laws;
“register” means the Register which a council is required to keep under bye-law 4;

“Registrar” means the Council Secretary or any employee of the Council duly authorised by the Council Secretary in writing;

“street-vendor” means any person who carries on the business of selling goods from a pitch at which he stations himself either in a public place or upon a ground over which he has no right of control.

3. (1) No person shall carry on the business of a hawker within the council area unless he is the holder of a valid hawker’s licence issued by the Licensing Authority.

Licence required to carry on hawking business

(2) A hawker’s licence shall be in Form 1 as set out in the Schedule hereto.

(3) Any person who contravenes the provisions of sub-bye-law (1) shall be guilty of an offence and liable to a fine of P50 or to imprisonment for 3 months, or to both.

(4) Notwithstanding the provisions of sub-bye-law (1), a manufacturer or producer of perishable goods who operates on a small scale may carry on the business of a hawker and shall not be required to obtain a hawker’s licence.

4. (1) No person shall carry on the business of a street-vendor within the council area unless he is the holder of a certificate of registration issued by the Registrar.

Street-vendors to be registered

(2) A street-vendor’s certificate shall be in Form 2 as set out in the Schedule hereto and shall be issued only on payment of a registration fee of P1.

(3) The Registrar shall keep a register in the prescribed form in which shall be entered such particulars of street-vendors as the council may deem necessary.

(4) Any person who contravenes the provisions of sub-bye-law (1) shall be guilty of an offence and liable to a fine of P50 or to imprisonment for 3 months or to both.

(5) Notwithstanding the provisions of sub-bye-law (1) a manufacturer or producer of perishable goods who operate on a small-scale may carry on the business of a street-vendor and shall not be required to obtain a certificate of registration.

5. (1) Every hawker’s licence shall be an annual licence beginning from 1st January and shall, subject to the provisions of bye-law 11 (2) and (3), expire immediately after 31st December of the year in which it is issued.

Period of hawker’s licence

(2) Where a hawker’s licence is issued during the currency of a year, it shall be valid for the remaining period of that year.

6. (1) Any person who wishes to obtain a hawker’s licence shall make an application therefor to the Licensing Authority in Form 3 as set out in the Schedule hereto.

Application for hawker’s licence

(2) In any application, the applicant shall specify —

(a) the classes of goods in which he wishes to trade;

(b) the area in which he wishes to hawk.

(3) The application shall be accompanied by two copies of a clearly recognisable head and shoulders of a photograph of the applicant, approximately 5 by 4 centimetres in size.

7. (1) No person shall be licensed to carry on the business of a hawker elsewhere than in the wards specified in the licence.

Wards and areas

(2) No person shall be registered to carry on the business of a street vendor elsewhere than in the areas specified in the certificate.

(3) No person shall be registered to carry on the business of a street-vendor on any private property unless the owner of such property has notified the Registrar in writing that he consents to such property being used by street-vendors for the purpose of carrying on their business.

Procedures of
licensing
Authority

8. (1) Where an application for a hawker's licence is made in terms of bye-law 6, the Licensing Authority shall, at least 14 days before the date of the meeting at which such application is to be considered, post a notice of such application at the council's office and such notice shall be open to public inspection.

(2) In considering any application for a hawker's licence, the Licensing Authority may regulate its own procedure.

Issue of a
hawker's
licence and
street-
vendor's
certificate

9. (1) Subject to the provisions of sub-bye-laws (2) and (3) the Licensing Authority, after consideration of an application made in terms of bye-law 6, shall issue the applicant with a hawker's licence on payment of a fee of P5, unless the applicant is disqualified by law from obtaining such a licence.

(2) The Licensing Authority or the Registrar, as the case may be, may refuse to issue a hawker's licence or a street-vendor's certificate, as the case may be, to any person who —

(a) is a minor under 16 years of age;

(b) is an unrehabilitated insolvent;

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

(d) has, during the 5 years preceding the application, been convicted of any offence —

(i) under these Bye-Laws; or

(ii) involving dishonesty

(e) is neither a citizen of Botswana nor entitled to reside in Botswana.

(3) The Licensing Authority or the Registrar, as the case may be, may refuse to issue a hawker's licence or a street vendor's certificate, as the case may be, to any person if it or he is satisfied that the issue of such licence or certificate, as the case may be, would be contrary to the public interest.

(4) The Licensing Authority or the Registrar, may refuse to issue a hawker's licence or a street-vendor's certificate, as the case may be, in respect of a particular class of goods if it or he is satisfied that the carrying on of business in respect of that class of goods would be contrary to the public interest.

Issue of a
duplicate
hawker's
licence and
street-
vendor's
certificate

10. (1) The Licensing Authority, on being satisfied that a hawker's licence issued by the Licensing Authority has been lost or destroyed, shall on payment of a fee of 50t and on being supplied with two copies of a clearly recognizable head and shoulders of a photograph of the person to whom the licence was issued, approximately 5 by 14 cm in size, issue a duplicate licence to that person.

(2) The Registrar, on being satisfied that a street vendor's certificate issued by him has been lost or destroyed, and on payment of a fee of 50t, shall issue a duplicate certificate to that person.

(3) Where a licence or certificate which had been lost and replaced is

recovered, the duplicate licence or certificate, as the case may be, shall be returned forthwith to the Licensing Authority or Registrar, as the case may be.

11. (1) A hawker's licence may, upon its expiry, be renewed by application in the prescribed form to the Licensing Authority. Renewal of hawker's licence

(2) Every application for renewal of a hawker's licence shall be made not later than 31st March of the following year.

(3) On application made in terms of sub-byelaws (1) and (2) hereof, and on payment of a fee of P1, the Licensing Authority shall endorse such renewal on the licence and may attach such conditions to the renewal thereof as it may determine.

(4) For the purposes of sub-byelaw (2), where any person who holds a valid hawker's licence on 31st December in any year renews that licence on or before 31st March of the following year, such licence shall be deemed to have continued in force until such renewal.

(5) Every hawker's licence which is not renewed on or before 31st March of the following year shall expire immediately thereafter and may be renewed only by taking out a new licence.

(6) The Licensing Authority may refuse to renew a hawker's licence if in its or his opinion it is in the public interest not to renew such a licence.

12. (1) The Licensing Authority or Registrar, as the case may be, may at any time, modify or suspend a licence or certificate as the case may be, if in its or his opinion, the continued use of such licence or certificate constitutes a danger to public health. Modification suspension, or cancellation of licences or certificates

(2) A licence or certificate which is suspended under the provisions of sub-byelaw (1) shall continue to be so suspended until the holder of such licence or certificate, as the case may be, has complied, to the satisfaction of the Licensing Authority or Registrar, with such requirements designed to remove the danger as the Licensing Authority or Registrar may specify.

(3) The Licensing Authority or Registrar, as the case may be, may at any time withdraw or cancel a licence or certificate issued under these Bye-Laws if, in its or his opinion it is in the public interest to do so:

Provided that the Licensing Authority or Registrar, shall allow the licence holder or certificate holder as the case may be, such time as he may consider necessary to enable the holder of the licence or certificate to dispose of his existing stock.

(4) A licence holder or certificate holder shall not be entitled to any refund of fees paid in respect of any licence or certificate that has been suspended, withdrawn or cancelled by the Licensing Authority or Registrar in terms of this by-law.

13. (1) No hawker shall —

(a) use vehicles greater in number than the number of vehicles permitted by the Licensing Authority and endorsed upon his licence for the purpose of carrying, storing or exhibiting his goods; or

(b) agree, undertake or purport to transfer his licence to another person;

(c) trade in any other goods except those specified in his licence.

(2) Every hawker or street-vendor shall — Duties of a hawker or street-vendor

- (a) keep in a clean and sanitary condition at all times, receptacles, instruments and other articles used in the exercise of his trade;
- (b) pick up and remove any paper, litter, refuse, receptacles and other objects which in the exercise of his trade have been deposited or dropped, or have fallen in or on any public place or private property whereon he has conducted his business;
- (c) wear clean clothing while engaged in the conduct of his business;
- (d) if directly or indirectly obstructing traffic in any public place or obstructing the use of any public place, or causing a nuisance or danger to persons in the vicinity by means of himself, his vehicles or his goods while engaged in the conduct of his business, at the request of any member of the Botswana Police Force or a council officer, remove himself, his vehicles or his goods, as the case may be, to such distance as may reasonably be required to discontinue such obstruction or danger or to abate such nuisance.

Further duties of a hawker

14. No hawker shall —

- (a) trade on any private property without the consent of the owner, lessee, manager, or occupier of the said property;
- (b) erect or expose goods for sale in any tent, booth, stall, stand or similar structure;
- (c) hawk elsewhere than in the wards specified in the licence; or
- (d) hawk except between the hours of 7 a.m. and 7 p.m.

Further duties of a street-vendor

15. (1) No street-vendor shall —

- (a) in any area erect, or expose goods for sale in any tent, booth, stall, stand or similar structure unless the Registrar has granted him permission for the use in such area of such tent, booth, stall, stand or structure and has endorsed his certificate accordingly; or
- (b) carry on his business elsewhere than in the area in respect of which he is registered; or
- (c) carry on his business except in between the hours of 6 a.m. and 10 p.m.

(2) Every street vendor shall —

- (a) at the request of a member of the Botswana Police Force or a council officer, move his goods, receptacles and any other objects associated with his trade so as to permit the council's sanitary staff to clean any area in which he is conducting his business; and
- (b) when departing from the pitch at which he has been carrying on business, remove all goods, receptacles, or other objects associated with his trade and leave such pitch in a clean state.

Licence and certificate not transferable

16. A hawker's licence or street-vendor's certificate shall not be hired, ceded, transferred or in any way whatsoever made over to any other person.

Licences of certificates to be produced for inspection

17. (1) Every holder of a hawker's licence or a street vendor's certificate shall, on demand by any member of the Botswana Police Force or council officer immediately thereon produce it for inspection or otherwise shall, within 48 hours of such demand, produce it at the station or office of such member or officer.

(2) Any person who fails to comply with the provisions of sub-bye-law (1) shall be guilty of an offence and liable to a fine of P50 or to imprisonment for one month, or to both.

18. (1) Any person who contravenes any provision contained in bye-laws 13,14, and 15 shall be guilty of an offence and liable to a fine of P50 or to imprisonment for one month, or to both. Offences and penalties

(2) Any person who is convicted of any offence under these Bye-laws may, in addition to any penalty to which he may be liable, be liable to have his licence or certificate, as the case may be, cancelled with effect from such date as the court may consider it necessary to fix in order to enable him to dispose of his existing stocks.

19. Any person aggrieved by the decision of the Licensing Authority or Registrar made under these Bye-laws may appeal to the Minister whose decision shall be final. Appeal

SCHEDULE

Form 1

..... District Council Hawker's Licence
(This Licence is NOT transferable)

(Name)
is hereby licensed in accordance with the Hawking and Street-Vending Bye-Laws to carry on the business of a hawker, trading in the following classes of goods —

.....

.....
in the following wards —

.....

.....

..... /

.....
Signature of Holder

Photograph of holder

Right thumb-print of Holder

Endorsements

1. Number of vehicles permitted

2. Other endorsements

Date of Issue

Fee Paid

Receipt No.

.....
Council Officer

..... District Council Street-Vendor's Certificate
(This Licence is NOT transferable)

(Name)
is hereby licensed in accordance with the Hawking and Street-Vending Bye-Laws to
carry on the business of street vendor, trading in the following classes of goods —

.....
.....

.....
in the following areas —

.....
.....
.....

.....
Signature of Holder

Right thumb-print of Holder

Date of Issue

.....
Registrar

Renewals

Date.....

Date.....

Date.....

Date.....

Date.....

Date.....

Date.....

Date.....

Date

APPLICATION FOR A HAWKER'S LICENCE

Form 3

Full Names
(Block Letters)

Address
.....

Nationality
(If not a citizen of Botswana, state whether you hold a residence permit,
or on what ground you claim to be entitled to reside in Botswana)

Age Sex

I wish to trade in the following class of goods
.....
.....

I wish to hawk/carry on business as a hawker in the following wards —
.....
.....
.....

Date

.....
signature or mark of applicant

MADE this 17th day of April, 1985.

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Minister of Local Government and Lands