

Statutory Instrument No. 2 of 1987

TRADE AND LIQUOR ACT, 1986

TRADE AND LIQUOR LICENSING REGULATIONS, 1987

(Published on 9th January, 1987)

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SCHEDULE

IN EXERCISE of the powers conferred on the Minister of Commerce and Industry by section 69 of the Trade and Liquor Act, 1986, the following Regulations are hereby made —

1. These Regulations may be cited as the Trade and Liquor Licensing Citation Regulations, 1987.

Agent
licence

2. (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; or
- (c) of acting as an agent whether on a franchise, for direct payment or on a commission basis or for compensation in any other form whatsoever, shall require an agent licence.

(2) Any holder of an agent's licence shall, if he wishes to assume the agency for any product for which he is not already an agent, obtain the prior approval of the licensing authority to his so doing.

(3) The provisions of paragraph (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.

(4) The provisions of paragraph (1) (b) shall not apply to a financial institution licensed under the Financial Institution Act.

Cap. 46:04
Auctioneer
licence

3. (1) Subject to the provisions of paragraph (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 62, 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 paragraph (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 paragraph (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 paragraph (2);
- (d) any other person in respect of any such sale as is referred to in paragraph (2) which he is authorized 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 30 days licence.

Pharmacy
licence

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

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

(3) The provisions of paragraph (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 16 of the Medical, Dental and Pharmacy Act.

(4) A pharmacy licence shall, subject to the right to use other premises for storage only, be restricted to the fixed premises specified therein.

5. (1) Subject to the provisions of paragraph (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.

External
Represent-
ative
licence

(2) Such a licence shall only be issued —

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

(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 as an external company).

Providing that an external representative licence may be granted to a non-resident individual, partnership or company if the Minister certifies that the applicant is dealing in the sale and servicing of equipment requiring specialised knowledge.

(3) The provisions of paragraph (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 purpose of this paragraph any number of employee's names may be endorsed on an external representative licence.

6. (1) Subject to the provisions of paragraph (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.

Fresh
produce
licence

(2) For the purposes of this paragraph "fresh produce" means bread and fresh milk, fish, meat, 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 paragraph (2), which may be used for human consumption without further preparation.

(4) The provisions of paragraph (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 right to use other premises for storage only, be restricted to the fixed premises specified therein.

7. (1) The holder of a general trading licence shall, subject to the provisions of section 62, be entitled —

General
trading
licence

(a) to trade in any goods other than those for which in terms of these regulations a pharmacy, fresh produce, petrol filling station, motor dealers or restaurant licence is required; and

(b) to carry on the business referred to in regulation 13(2).

(2) A general trading licence shall, subject to the right to use other premises for storage only, be restricted to the fixed premises specified in the licence and, in respect of the business referred to in paragraph (1) (b), such other places within the same district as may also be specified therein.

Hairdresser
licence

8. (1) Subject to the provisions of paragraph (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.

Supermarket
licence

9. (1) The holder of supermarket licence shall subject to the provisions of section 62 be entitled to sell any goods other than those for which a pharmacy licence, petrol filling station licence, garage licence, motor dealers licence, fresh produce licence or restaurant licence is required.

(2) A supermarket licence will only be issued to a business that has a shop floor space of at least 1 000 square metres.

Petrol filling
station
licence

10. (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.

(3) A petrol filling station licence shall be restricted to the fixed premises specified therein.

Driller
licence

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

Restaurant/
take-away
restaurant
licence

12. (1) Subject to paragraph (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 also require a restaurant/take-away restaurant licence.

(2) The holder of a restaurant/take-away restaurant licence shall also be entitled to sell reading matter, tobacco, matches and smoker's requisites, and foods other than fresh meat and vegetables which may be used for human consumption.

(3) Any person who at any fixed place of business supplies cooked food for consumption elsewhere than on the licensed premises shall require a restaurant/take-away restaurant licence.

(4) Paragraph (1) shall not apply to —

Cap. 45:01

(a) the holder of any liquor licence issued under this Act in respect of transactions at the licensed premises; or

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

(5) A restaurant/take-away restaurant licence shall, subject to the right to use other premises for storage only, be restricted to the fixed premises specified therein.

Travel agent
licence

13. (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 be restricted to the fixed premises specified therein.

14. (1) The holder of a wholesaler licence shall, subject to section 62, be entitled to carry on the business of selling to retailers any goods other than those for which in terms of these regulations a pharmacy, petrol filling station, restaurant/take-away restaurant licence is required.

Wholesaler/
specialised
wholesaler
licence

(2) A wholesaler licence shall, subject to right to use other premises for storage only, be restricted to the fixed premises specified in the licence.

(3) The holder of a specialised wholesaler licence shall only be entitled to sell to retailers the goods specified in his licence, and a contravention of this provision would constitute sufficient reason for the cancellation of his licence.

(4) The term "retailer" shall for the purposes of these regulations mean a licensed trader in those goods or person holding hawkers, vendors or manufacturers licences in respect of those goods issued under any other law in force at that time, but shall in no event be construed to mean any other member of the public, national or foreign, who is not the holder of any such licence.

15. (1) Subject to the provisions of section 62 the holder of a specialised dealer licence may trade in the goods specified in his licence but no such licence may specify —

Specialised
dealer
licence

(a) those goods for which a pharmacy, fresh produce, petrol filling station, restaurant or take away restaurant licence is required: or

(b) foodstuffs (including tinned and frozen foods, flour and meal,) soap, washing powders, household detergents, paraffin, methylated spirits and household cleaning materials.

(2) A specialised dealer licence shall, subject to the right to use other premises for storage only, be restricted to the fixed premises specified therein.

16. (1) The holder of a wholesaler's licence or a specialised wholesaler's licence shall only sell to retailers such goods as he is entitled to sell under his licence and such goods as the retailer is entitled to purchase for his retail business under the retailer's licence.

Condition
of
wholesale
licence

(2) The holder of a wholesaler's licence or a specialised wholesaler's licence shall only sell goods in wholesale quantities. What is a wholesale quantity will depend on the article sold and on what is recognised in the trade in Botswana and abroad as a wholesale quantity of that particular article.

(3) Any business that sells any goods in wholesale quantities shall require a wholesale licence or specialised wholesale licence as the case may be.

17. (1) Any person who carries on the business of selling motor vehicles shall require a motor dealer's licence:

Motor dealers
licence

Provided that a person who sells only a vehicle which he has maintained for his own use and of which he is the registered owner shall not be considered to be a person carrying on the business of selling motor vehicles.

(2) The holder of a motor dealer's licence shall be entitled to sell motor vehicle spares and parts, including tyres and lubricants.

(3) A motor dealer's licence shall, subject to the right to use other premises for storage only, be restricted to the fixed premises specified therein.

Garage/
workshop
licence

18. (1) Any person who carries on the business or repairing motor vehicles shall require a motor garage licence.

(2) Repairing motor vehicles shall include panel beating, servicing and any labour involved in maintaining a motor vehicle in a roadworthy condition.

(3) Any person who carries on any business involving the supply of any personal services shall require a workshop licence.

Dry cleaners
licence

19. Any person carrying on the business of operating a laundromat or dry cleaning business shall require a dry cleaner's licence.

Exporters/
Importers
licence

20. (1) Any person carrying on the business of exporting from or importing to Botswana any merchantable article shall require an exporter's/importer's licence.

(2) A licence issued under subsection (1) shall not exempt the licensee from obtaining any other licence required under any other law to import or export such articles.

Hotel liquor
licence

21. (1) Subject to the provisions of these regulations, an *hotel liquor licence* shall authorize the sale, by the licensee on the premises specified in the licence, for consumption on the premises, of intoxicating liquor in unsealed vessels or containers —

(a) in or at a bar, between the hours of nine o'clock in the morning and eleven o'clock in the evening on any day other than a Sunday, Good Friday or Christmas Day; and between the hours of eleven o'clock in the morning and ten o'clock in the evening on any Sunday or Christmas Day; and

(b) elsewhere than in or at a bar, between the hours of nine o'clock in the morning and eleven o'clock in the evening on any day other than a Sunday, Good Friday or Christmas Day; and between the hours of eleven o'clock in the morning and ten o'clock in the evening on any Sunday or Christmas Day; and

(c) at any hour of the day or night, to any person taking a meal at the premises if the liquor is for consumption at the meal, and to any person lodging in the premises having registered as a guest in terms of section 42.

(2) An *hotel liquor licence* shall also authorize the sale, in a portion of the licensed premises reserved exclusively for such purpose and separated from any adjacent part of the licensed premises by a substantial wall or partition containing no opening other than a substantial door capable of being securely locked, for consumption off the premises or other than in public on the premises, of intoxicating liquor in casks, sealed bottles, or other sealed vessels, between the hours of ten o'clock in the morning and seven o'clock in the evening on any day other than a Sunday, Good Friday or Christmas Day.

Club liquor
licence

22. Subject to the provisions of these regulation, a *club liquor licence* shall authorize the sale, on the premises specified in the licence, for consumption on the premises, of intoxicating liquor in unsealed vessels or containers to members of the club of which the licensee is nominee —

(a) between the hours of nine o'clock in the morning and eleven o'clock in the evening on any day other than a Sunday, Good Friday or Christmas Day; and

(b) between the hours of eleven o'clock in the morning and ten o'clock in the evening on any Sunday or Christmas Day.

23. Subject to the provisions of these regulations, a bottle store licence shall authorize the sale, on the premises specified in the licence, for consumption off the premises, of intoxicating liquor in casks, sealed bottles, or other sealed vessels, between the hours of ten o'clock in the morning and seven o'clock in the evening on any day other than a Sunday, Good Friday or Christmas Day.

Bottle store
liquor
licence

24. Subject to the provisions of these regulations, a bar liquor licence shall authorize the sale, to members of the public freely admitted thereto, on the premises specified in the licences, for consumption on the premises, of intoxicating liquor in unsealed vessels or containers, in or at a bar, between the hours of nine o'clock in the morning and eleven o'clock in the evening on any day other than a Sunday, Good Friday or Christmas Day; and between the hours of eleven o'clock in the morning and ten o'clock in the evening on any Sunday or Christmas Day.

Bar liquor
licence

25. A restaurant liquor licence shall authorise the sale, on the premises of the restaurant specified in the licence, for consumption on the premises, of intoxicating liquor in unsealed vessels or containers, to any person bona fide taking an ordinary meal in the restaurant which has been purchased thereat, for consumption with such meal.

Restaurant
liquor
licence

26. Subject to the provision of these regulations, a temporary licence issued by the licensing officer shall authorise the sale at any place of public assembly, on premises specified in the licences, of intoxicating liquor in unsealed vessels or containers for consumption on the premises, for a period not exceeding fifteen days during which the assembly continues or for any less period specified in the licence, subject to such restrictions and conditions as to the hours during which intoxicating liquor may be supplied or otherwise as may be inserted in the licence.

Temporary
liquor
licence

27. (1) Where the licensing authority considers that it is in the interests of the public, or of a certain section of the public, he may issue to any suitable person a special liquor licence, which shall authorise the provision or sale of liquor to such members of the public or such section of the public as may be specified in the licence, on such premises as shall be specified in the licence, subject to such conditions or restrictions as the licensing authority may stipulate.

Special
liquor
licence

(2) Application for a special liquor licence under this section shall be made to the licensing authority who may issue or refuse to issue such licence at its discretion, and the decision of the licensing authority shall be final and neither such decision nor any conditions or restrictions which the licensing authority may attach to any such licence shall be questioned in any court.

(3) A special liquor licence shall be issued for a period of six months only, but may be renewed from time to time by the licensing authority at its discretion.

(4) A special liquor licence issued under this section shall not be transferable without the written consent of the licensing authority.

(5) Where the licensing authority is satisfied that any of the conditions or restrictions subject to which a special liquor licence was issued has been contravened or not complied with it may cancel such licence at its discretion, and such cancellation shall not be questioned in any court.

(6) The fee payable for the issue of a special liquor licence shall be one half of the fee payable in respect of an annual bar liquor licence.

Variation
of hours

28. Notwithstanding anything to the contrary in these regulations the Minister may, by notice published in the Gazette, authorise the sale of liquor by a licensee or any class of licencees at times other than those prescribed in these regulations.

Limits to
licences per
person

29. No person may, without the approval in writing of the Minister, be issued with more than four licences under these regulations.

Licences
for citizens
premises

30 Licences shall only be issued to citizens of Botswana or to companies wholly owned by citizens of Botswana to carry on the following trades or businesses —

- (a) Hawkers and Vendors
- (b) Butchery and Fresh Produce
- (c) General Trading
- (d) Petrol Filling Station
- (e) Bottle Stores
- (f) Bars (other than those related to hotel establishment)
- (g) Chibuku bar
- (h) Village type restaurant/take away including restaurant liquor licence
- (i) Supermarkets (but excluding chainstores and franchise operations)
- (j) Simple speciality operations such as clothing boutique, footwear, etc.

Licence may
be for fixed
premises

31 The licensing authority may, when granting a licence endorse upon such licence that the licensee shall carry on the licensed trade or business at a place or within an area stated in the endorsement.

Register of
licences

32. Every licensing authority shall maintain a register in which shall be entered the following particulars —

- (a) the name and address of the applicant;
- (b) his nationality;
- (c) the date of the application;
- (d) the licence applied for with particulars of the business or goods or classes of goods to be covered by the licence if granted;
- (e) whether granted or refused;
- (f) date of issue of licence if application is granted;
- (g) date of expiry of licence unless renewed;
- (h) date of renewal or last renewal;
- (i) fee paid with receipt number;
- (j) serial number of the licence issued;
- (k) name of person or company in whose name licence is issued;
- (l) premises in respect of which licence is issued;
- (m) area to which licensed business is confined;
- (n) any amendments made, by transfer or removal, to original licence.

33. Holders of a club liquor licence, a bottle store liquor licence, and a bar liquor licence may sell non-alcoholic beverages, tobacco products and snacks. Sale of non-alcoholic beverages etc.
34. Any person acting in contravention of any of the provisions of these regulations or of any condition governing the issue of any licence, shall be guilty of an offence under the Act. Penalty
35. The fees payable in respect of the different licences shall be the fees set out in the Schedule hereto. Fees
36. Those persons already carrying on any trade or business requiring a licence under this Act and not already licensed under the Trading Act or Liquor Act now repealed shall obtain a licence under this Act within six months of the coming into force of this Act. Period of grace

SCHEDULE

1. Agents licence (sole agent or distributor or franchise holder)	P250,00
2. Other agents	P100,00
3. Auctioneer's licence	P100,00 and P20 for 15 days
4. Pharmacy licence	P200,00
5. External representative licence	P100,00
6. Fresh Produce licence	P100,00 Urban P50,00 Rural
7. Hairdresser's licence	P250,00
8. Supermarket licence	P250,00
9. Petrol filling station licence	P100,00
10. Restaurant/take away restaurant licence	P100,00 Urban P50,00 Rural
11. Travel Agents's licence	P200,00
12. Wholesaler's licence	General P300,00 specialised P200,00
13. Specialised dealers licence	P150,00
14. Motor Dealer licence	P300,00
15. Garage/workshop licence	P200,00
16. Dry cleaner's licence	P100,00
17. Exporter's/Importer's licence	P150,00
18. Hotel liquor licence	P250,00
19. Club liquor licence	P 50,00
20. Bottle store liquor licence	P250,00
21. Bar liquor licence	P250,00
22. Restaurant liquor licence	P 70,00 Rural P150,00 Urban
23. Temporary liquor licence	P 15,00 per day
24. Special liquor licence	P125,00
25. Driller licence	P 50,00
26. General Trading licence	
(a) Urban areas	P150,00
(b) Non urban primary areas (Mahalapye, Serowe, Mochudi, Molepolole, Ramotswa etc)	P100,00
(c) Rural East (east of FAP 100 km. line from railway)	P 75,00
(d) Rural West (west of FAP 100 km line from railway line including Maun)	P 50,00
27. Duplicate licence fee	P 2,00

No.....

THE TRADE AND LIQUOR ACT 1986
TRADE/LIQUOR LICENCE

Licence No.....issued under the provisions of the
Trade and Liquor Act and the Regulations thereunder

To: (Name and Company) whereas the said licence-holder is hereby licenced to
carry on the business of

.....
and trade in the following goods/services:

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

at

for the period from.....to.....unless renewed.

endorsements:

.....
Licensing Officer.

RENEWAL FORM

DATE:.....

Name and Address of Applicant

.....

Name of Company

No. of current Licence..... **issued at**..... **on**.....

is business operating? **Yes?** **No**

if No, why not:.....

.....
Has owner/Manager been convicted of any offence under the Trade and Liquor Act 1986 during the last 12

months? **Yes/No. If yes, state nature of offence**

.....

I Certify that the information given above is true

Signature of Applicant **Date**.....

FOR OFFICE ONLY

Date Renewal Application Received

Date Renewal Application approved/rejected

If rejected, reason for rejection.....

.....

.....
Licensing Officer.

DRAFT APPLICATION FORM

A. PROPOSED BUSINESS

1. Type of business/Licence applied for.....

2. Location of proposed business.....

3. Name or style under which the proposed business will operate

4. Number and names of other businesses association with or owned by the applicant

.....

5. APPLICANT'S CORPORATE STATUS

Sole Proprietor

Partnership

*Locally registered
Company*

Other

.....

.....

.....

.....

B. PARTICULARS OF APPLICANT

1. For Sole Proprietor

(a) Name and Address	Registered Name	Trade Name
.....
.....
.....
(b) Nationality
.....
(c) Age of Applicant
.....

2. For Partnership Firm

Name of each Partner	Address	Age/s	Nationality	Ownership
.....
.....
.....

3. For Company

(a) Registered Name of the Company

Trading Name of the Company if different from (a).....

(b) Address of the Company

(c) Name and address of the Company's Secretaries

.....

.....

(d) Percentage Share of citize equity holding

(e) Particulars of all Directors:

Name	Nationality	Address	% Share in equity Holdings
.....
.....
.....
.....
.....

C. FINANCIAL POSITION

- 1. Amount to be invested
- 2. Source of financing
-
- 3. Cash in Hand/Bank
-

D. PARTICULARS OF LAND/PREMISES

- 1. Plot No. or Land Board Certificate No. and date
- 2. Is the plot zone commercial?
- 3. Has the annual Land Board rent been paid? Date.....
- 4. If the land/premises are leased, state the name of the owner
-
- 5. Size of the premises (sq.m. of floor space)
- 6. Date of expiry of lease

E. HEALTH AND BUILDING REQUIREMENTS

Has your premises been inspected and certified suitable by the Health Inspector?

.....

F. RESIDENCE AND WORK PERMITS (FOR EXPATRIATE APPLICANT)

- 1. Date of expiry of the residence permit
- 2. Date of expiry of the work permit

G. GENERAL INFORMATION

- 1. Have you ever been convicted in the last 2 years of any offences mentioned in the Trade and Liquor Act?
- 2. If so, give particulars of each conviction
-

(I certify that the information supplied in my application is true to the best of my knowledge and belief.)

Date Applicant's Signature

FOR OFFICIAL USE ONLY

Date on which application was received by licensing officer

Proposed date of hearing of the application

Signature of Licensing Officer

FORM.....

**NOTICE OF APPLICATION FOR A LICENCE (TRADE
AND LIQUOR LICENSING ACT)**

Notice is hereby give that the undersigned intends to apply for a licence in terms of section
.....of the Trade and Liquor Licensing Act.....
.....
in respect of premises situated at..... LLA/NLA has
determined that the application shall be heard by the Licensing Authority on the
.....19.....

Any person objecting to the grant of such licence should, within 7 days of the second publication on this
notice give notice in writing to the said LLA/NAL of his/her intention to oppose such application and state
the grounds upon which his/her objection is based and copy of the letter of objection should be furnished to the
applicant.

NAME

ADDRESS

.....

DATE

MADE this day of 1986.

M.P.K. NWAKO,
Minister of Commerce and Industry.

L2/7/89