

REGULATIONS RELATING TO BUSINESSES

The Administrator has, in terms of Section 6(1) of the Businesses Act, 1991 (Act 71 of 1991), made the regulations as set out in the Schedule hereto.

SCHEDULE***Definitions***

1. In these regulations –
 - i. “Inspector” means an inspector appointed in terms of regulation 12, and
 - ii. “The Act” means the Businesses Act, 1991 (Act 71 of 1991), and any other words or expressions in these regulations when defined in the Act, has that meaning, unless the context otherwise indicates.

Application

2. These regulations shall be applicable and valid in the area of a licensing authority, which is situated in the Province of the Cape of Good Hope and in the area of Walvis Bay in so far as they are applicable and not inconsistent with or excluded by any other Act.

Application for licences, duplicate licences and amendments

3. (1) Application for a licence or a duplicate licence or the amendment of an existing licence shall be made to the licensing authority –
 - a) In whose area the applicant’s business premises are situated. Or
 - b) In respect of a business contemplated by item 3 of Schedule 1 of the Act, in whose area the applicant carries on business or intends carrying on business.
- (2) Application for a licence shall be made essentially in the form of form L.1 in the Schedule hereto and shall be accompanied by the prescribed application fee.
- (3) A licence holder who intends to cease carrying on business from any business premises and commences carrying on such business from other premises which are situated within the area of the same licensing authority shall 30 (thirty) days before doing so make application to the licensing authority for an apposite licence in respect of such other premises.

Application fees

4. Every application for a licence for a business contemplated in Items 1 and 2 of Schedule 1 of the Act shall be accompanied by an amount of **R25.00** and every application for a licence for a business contemplated in Item 3 of Schedule 1 of the Act shall be accompanied by an amount of **R10.00**, but the issue of a duplicate licence or the amendment of an existing licence shall be free of charge.

Consideration of application

5. (1) On receipt of an application in terms of regulation 3 the licensing authority may, subject to section 2(4), (5) and (7) of the Act, obtain a report in respect of the business premises, the applicant or the person who will be in actual and effective control of the premises.

(2) A licensing authority shall, within a period of 21 (twenty one) days after the receipt of an application, or within such extended period as may be agreed upon between the licensing authority and the applicant concerned, either grant such application or refuse to grant it and inform the applicant in writing of its decision and their right of appeal in terms of section 3 of the Act.

(3) If so requested by the applicant or licence holder the licensing authority shall within 14 (fourteen) days after such request has been received, furnish in writing its reasons for any decision of which the applicant has been notified in terms of section 2(10) of the Act.

(4) No applicant for a licence shall, whether his application was withdrawn by him/her or refused by the licensing authority, be entitled to a refund of his/her application fee in terms of regulation 4.

Issue and display of licenses

6. (1) A licensing authority which has granted an application for a licence shall issue the applicant with a licence on a form which shall be essentially like form L.2 in the Schedule hereto, which shall authorise him/her to carry on the business concerned.

(2) Every licence issued in terms of this regulation shall at all times –
 - a) Be prominently displayed in a conspicuous place in or on the business premises to which such licence relates, or in the case of a hawker, be kept on his/her person.
 - b) Be kept in a clearly legible condition, as issued, and
 - c) Be produced to an Inspector or Officer on demand.

Issue of duplicate licence

7. When a licence is lost or destroyed or becomes illegible, the holder thereof shall apply in writing to the licensing authority for the issue of a duplicate copy.

Record of licences

8. (1) Every licensing authority shall keep and maintain a record containing the information as required in application form L.1 in respect of every business conducted in its area.

(2) Unless otherwise determined, all records and documents of a licensing authority shall be in the safekeeping of such licensing authority, and unless the licensing authority so instructs, no person shall have access to or be entitled to inspect any such records or documents.

Change of ownership of or control over licensed business

9. (1) Whenever there is a change in the ownership of a business referred to in Item 1, 2 or 3 of Schedule 1 to the Act, the licence issued in respect thereof shall lapse and the new owner shall submit an application for an apposite licence.

(2) In the case of a business referred to in Item 2 of Schedule 1 to the Act, the licence holder shall not effect any change in the identity of the person who is in actual and effective control of the business, as contemplated in section 2(4)(b) of the Act, without prior approval and the amendment of the relevant licence by the licensing authority, except in the event of assuming control himself/herself.

(3) For the purposes of this regulation, a change in the shareholding of a registered company or a close corporation, where the company or close corporation remains the owner of the business, shall not be regarded as a change in the ownership of that business.

Transfer of licence

10. (1) If the holder of a licence –
 - a) Dies,
 - b) Is subject to an order of court sequestrating his estate,
 - c) Assigns his estate for the benefit of his creditors,
 - d) Is subject to curatorship in consequence of an order of court,
 - e) Is a company and is wound up or placed under judicial management,
 - f) Is a close corporation and is wound up, or
 - g) Is a partnership of which the members have changed.