

ANNEX 3

BUSINESS LICENCE REGULATION (DRAFT COPY)

BUSINESS LICENCE ACT 2002

BUSINESS LICENCE REGULATIONS 2002

In exercise of the powers conferred by section 23 of the Business Licence Act 2002, the Minister with the consent of Cabinet hereby makes the following regulations -

1) SHORT TITLE

1. THESE REGULATIONS MAY BE CITED AS THE BUSINESS LICENCE REGULATIONS 2002.
2. THESE REGULATIONS SHALL COME INTO FORCE ON A DAY NOMINATED BY THE MINISTER.

2) INTERPRETATION

1. IN THESE REGULATIONS, UNLESS THE CONTEXT OTHERWISE REQUIRES –
 - I. “ACT” MEANS THE BUSINESS LICENCE ACT 2002.

“Application” means an application for a Business Licence made under section 7 of the Act and “applicant” shall have a corresponding meaning.

2. UNLESS THE CONTEXT OTHERWISE REQUIRES, WORDS OR EXPRESSION IN THESE REGULATIONS HAVE THE SAME MEANING AS IN THE ACT.

3) APPLICATION FOR BUSINESS LICENCE

II.

1. AN APPLICATION MADE UNDER SECTION 7 OF THE ACT SHALL BE MADE IN THE FORM PRESCRIBED IN SCHEDULE ONE AND MUST BE ACCOMPANIED WITH THE CORRECT APPLICATION FEE AS PRESCRIBED IN SCHEDULE TWO.
2. THE APPLICATION MUST BE PROVIDED TO THE BUSINESS LICENSING OFFICER, EITHER IN PERSON OR BY POST.
3. WHERE AN APPLICATION IS CONSIDERED BY THE BUSINESS LICENSING OFFICER TO BE INCOMPLETE, THE BUSINESS LICENSING OFFICER SHALL ADVISE THE APPLICANT IN WRITING TO PROVIDE THE NECESSARY INFORMATION OR CARRY OUT THE NECESSARY ACTIONS TO COMPLETE THE APPLICATION.
4. WHERE AN APPLICATION IS CONSIDERED BY THE BUSINESS LICENSING OFFICER TO BE COMPLETE, THE APPLICANT SHALL BE ISSUED WITH A RECEIPT INDICATING THE DATE THE COMPLETED APPLICATION WAS RECEIVED.

4) Application per Business Activity

1. AN APPLICATION MUST BE MADE FOR EACH BUSINESS ACTIVITY AS SET OUT IN SCHEDULE THREE.
2. WHERE A PERSON ENGAGES IN MORE THAN ONE BUSINESS ACTIVITY, A BUSINESS LICENCE MUST BE OBTAINED FOR EACH BUSINESS ACTIVITY.

5) ISSUE OR REFUSAL OF BUSINESS LICENCE

III.

1. WHERE A COMPLETED APPLICATION IS RECEIVED, THE BUSINESS LICENSING OFFICER SHALL WITHIN 7 WORKING DAYS EITHER ISSUE THE APPLICANT WITH A BUSINESS LICENCE OR ADVISE THE APPLICANT IN WRITING OF THE GROUNDS FOR REFUSING THE APPLICATION.
2. A BUSINESS LICENCE ISSUED UNDER SECTION 8 OF THE ACT SHALL BE IN THE FORM PRESCRIBED IN SCHEDULE FOUR.

6) Withdrawal of Application

1. THE APPLICATION MAY BE WITHDRAWN BY WRITTEN APPLICATION TO THE BUSINESS LICENSING OFFICER AND SIGNED BY THE APPLICANT(S).
2. THE APPLICATION FEE SHALL NOT BE REFUNDED WHERE THE APPLICATION IS WITHDRAWN.

IV. 7) BUSINESS LICENCE

V.

1. A BUSINESS LICENCE ISSUED BY THE BUSINESS LICENSING OFFICER UNDER SECTION 8 OF THE ACT SHALL INCLUDE:
 - A) BUSINESS NAME;
 - B) LICENCE NUMBER;
 - C) BUSINESS ACTIVITY;
 - D) ADDRESS OF PLACE OF BUSINESS;
 - E) TAXPAYER IDENTIFICATION NUMBER;
 - F) DATE OF ISSUE;
 - G) EXPIRY DATE;
 - H) ANY CONDITIONS ENDORSED ON THE BUSINESS LICENCE; AND
 - I) SIGNATURE OF BUSINESS LICENSING OFFICER.

VI. 8) LICENCE CONDITIONS

1. IN ACCORDANCE WITH SECTION 9 OF THE ACT, THE BUSINESS LICENSING OFFICER MAY ISSUE A BUSINESS LICENCE UNDER SECTION 8 OF THE ACT SUBJECT TO ANY CONDITIONS ENDORSED ON THE LICENCE.

VII. 9) RENEWAL OF BUSINESS LICENCE

VIII.

1. A BUSINESS LICENCE RENEWAL APPLICATION SHALL BE MADE IN THE FORM PRESCRIBED IN SCHEDULE FIVE AND MUST BE ACCOMPANIED WITH THE CORRECT BUSINESS LICENCE RENEWAL APPLICATION FEE AS PRESCRIBED IN SCHEDULE TWO.
2. The requirements of regulation 3(2) and regulation 3(3) shall apply to a renewal application.
3. Where a renewal application satisfies the requirements of subregulation 1 and subregulation 2, the Business Licensing Officer shall within 7 working days of receiving the completed application issue the applicant with a renewed Business Licence.
4. WHERE CONDITIONS ARE ENDORSED ON THE BUSINESS LICENCE IN ACCORDANCE WITH SECTION 9 OF THE ACT, THE BUSINESS LICENSING OFFICER SHALL ONLY ISSUE A RENEWED BUSINESS LICENCE UPON BEING SATISFIED THAT THE CONDITIONS ARE BEING COMPLIED WITH.

10) BUSINESS LICENCE REGISTER

1. THE BUSINESS LICENSING OFFICER SHALL ESTABLISH AND MAINTAIN A BUSINESS LICENCE REGISTER IN A FORM APPROVED BY THE BUSINESS LICENSING OFFICER.
2. THE BUSINESS LICENCE REGISTER SHALL CONTAIN ALL OF THE INFORMATION LISTED IN REGULATION 7 EXCEPT THE SIGNATURE OF THE BUSINESS LICENSING OFFICER.
3. THE BUSINESS LICENCE REGISTER SHALL BE AVAILABLE FOR INSPECTION AND/OR COPYING OF ENTRIES BY THE PUBLIC DURING NORMAL BUSINESS HOURS UPON PAYMENT OF THE PRESCRIBED FEES AS SET OUT IN SCHEDULE TWO.
4. WHERE A BUSINESS LICENCE IS CANCELLED UNDER THE ACT OR BY OPERATION OF ANY OTHER RELEVANT LAW, THE BUSINESS LICENCE REGISTER SHALL CONTAIN DETAILS OF THE CANCELLATION DATE AND THE REASON FOR CANCELLATION IN SUMMARY FORM.

IX. 11) CANCELLATION OF BUSINESS LICENCE

1. WHERE THE BUSINESS LICENSING OFFICER CANCELS A BUSINESS LICENCE PURSUANT TO SECTION 11 OF THE ACT, THE BUSINESS LICENSING OFFICER SHALL:

A) ADVISE THE LICENSEE AFFECTED BY THE CANCELLATION BY NOTICE IN WRITING OF THE REASON(S) FOR THE CANCELLATION; AND

X.

B) THE NOTICE SHALL INFORM THE LICENSEE OF THE LICENSEE'S RIGHT OF APPEAL UNDER SECTION 12 OF THE ACT.

XI. 12) APPEAL TO MINISTER

1. AN APPEAL MADE PURSUANT TO SECTION 12 OF THE ACT SHALL BE MADE IN WRITING TO THE MINISTER WITHIN 14 WORKING DAYS OF THE DATE OF THE NOTICE ADVISING THE LICENSEE OF THE CANCELLATION UNDER SECTION 11 OF THE ACT.
2. THE APPEAL NOTICE SHALL SET OUT CONCISELY THE GROUNDS OF APPEAL AND ANY SUBMISSION(S) MADE BY THE LICENSEE.
3. THE MINISTER SHALL WITHIN 28 WORKING DAYS OF RECEIVING THE APPEAL, REVIEW AND CONSIDER ALL RELEVANT INFORMATION INCLUDING ANY SUBMISSION(S) MADE BY THE LICENSEE, AND SHALL MAKE A DECISION ON THE APPEAL.
4. THE MINISTER SHALL WITHIN 7 WORKING DAYS OF DECIDING THE APPEAL ADVISE THE LICENSEE IN WRITING OF THE OUTCOME OF THE APPEAL.

XII. 13) EFFECTIVENESS OF CANCELLATION

XIII.

1. WHERE THE BUSINESS LICENSING OFFICER CANCELS A BUSINESS LICENCE IN ACCORDANCE WITH SECTION 11 OF THE ACT, THE CANCELLATION SHALL NOT COME INTO EFFECT UNTIL:
 - A) IN THE CASE OF A LICENSEE WHO DOES NOT EXERCISE A RIGHT OF APPEAL WITHIN THE TIME PRESCRIBED UNDER REGULATION 12(1), THE DATE THE 14 WORKING DAY RIGHT OF APPEAL EXPIRES.

XIV.

B) IN THE CASE OF A LICENSEE WHO EXERCISES A RIGHT OF APPEAL WITHIN THE TIME PRESCRIBED UNDER REGULATION 12(1), THE DATE OF THE NOTICE ADVISING THE LICENSEE OF THE OUTCOME OF THE APPEAL IF IN FAVOUR OF THE CANCELLATION.

XV.

XVI. 14) AMENDMENT OF REGISTER AND LICENCE

1. WHERE THE LICENSEE BECOMES AWARE THAT THE INFORMATION CONTAINED ON THE BUSINESS LICENCE AND/OR THE BUSINESS LICENCE REGISTER IS NO LONGER CORRECT DUE TO A CHANGE IN CIRCUMSTANCES, THE LICENSEE MUST WITHIN 30 WORKING

DAYS ADVISE THE BUSINESS LICENSING OFFICER OF THE CHANGE(S) BY NOTICE IN WRITING.

2. WHERE THE BUSINESS LICENSING OFFICER RECEIVES A NOTICE UNDER SUBREGULATION (1) AND THE BUSINESS LICENSING OFFICER IS SATISFIED THAT THE BUSINESS LICENCE REGISTER CONTAINS INFORMATION THAT IS NO LONGER CORRECT, THE BUSINESS LICENSING OFFICER SHALL AMEND THE BUSINESS LICENCE REGISTER WITHIN 7 WORKING DAYS OF RECEIVING THE NOTICE.
3. WHERE THE BUSINESS LICENSING OFFICER RECEIVES A NOTICE UNDER SUBREGULATION (1) AND THE BUSINESS LICENSING OFFICER IS SATISFIED THAT THE BUSINESS LICENCE ISSUED UNDER SECTION 8 OF THE ACT CONTAINS INFORMATION THAT IS NO LONGER CORRECT, THE BUSINESS LICENSING OFFICER SHALL ISSUE THE LICENSEE WITH AN AMENDED BUSINESS LICENCE UPON APPLICATION AND PAYMENT OF THE PRESCRIBED FEE AS SET OUT IN SCHEDULE TWO.
4. WHERE THE BUSINESS LICENSING OFFICER AMENDS THE BUSINESS LICENCE REGISTER, THE BUSINESS LICENSING OFFICER SHALL WITHIN 7 WORKING DAYS OF THE AMENDMENT PROVIDE NOTICE IN WRITING OF THE AMENDMENT TO THE LICENSEE.
5. WHERE A LICENSEE FAILS TO INFORM THE BUSINESS LICENSING OFFICER WHEN REQUIRED UNDER SUBREGULATION (1), THE BUSINESS LICENSING OFFICER MAY IMPOSE A PENALTY PURSUANT TO SECTION 14(3) OF THE ACT.

XVII. 15) PENALTIES

1. WHERE THE BUSINESS LICENSING OFFICER IMPOSES A PENALTY UNDER REGULATION 14(5), THE BUSINESS LICENSING OFFICER SHALL ADVISE THE LICENSEE BY NOTICE IN WRITING.
2. WHERE A PENALTY IS IMPOSED UNDER REGULATION 14(5), THE PENALTY AMOUNT SHALL BE \$100.

XVIII. 16) FEES

1. THE FEES TABLE AT SCHEDULE TWO SHALL APPLY UNDER THE PROVISIONS OF THE BUSINESS LICENCES ACT 2002 AND ITS REGULATIONS.

Signed at Nuku'alofa on [.....] day of [.....] [2004]

Hon. Dr. Giulio Masasso Paunga
Minister of Labour, Commerce & Industries

XIX.

A. SCHEDULE TWO

PRESCRIBED FEES

Item	Activity	Fee (\$TOP)	Due date
1.	Application for Business Licence	\$75.00	Upon application
2.	Application for Renewal of Business Licence	\$65.00	Upon application
3.	Amendment of Business Licence	\$30.00	Upon application
4.	Inspection of Business Licence Register	\$10.00	Prior to inspection
5.	Copying of Business Licence Register	\$10.00	Upon application for copy

B. SCHEDULE THREE

BUSINESS ACTIVITIES

1. Service Providers

- a) Professional Services
 - 1. Legal Services
 - 2. Accounting, auditing and bookkeeping services
 - 3. Taxation Services
 - 4. Architectural services
 - 5. Engineering services
 - 6. Integrated engineering services
 - 7. Urban planning and landscape architectural services
 - 8. Medical and dental services
 - 9. Veterinary services
 - 10. Services provided by midwives, nurses, physiotherapists and para-medical personnel
 - 11. Other professional services

- b) Other Business Services
 - 1. Advertising services
 - 2. Market research and public opinion polling services
 - 3. Management consulting service
 - 4. Technical testing and analysis services
 - 5. Investigation and security
 - 6. Related scientific and technical consulting services
 - 7. Maintenance and repair of equipment
 - 8. Photographic services
 - 9. Packaging services
 - 10. Printing, publishing
 - 11. Other

- c) Audiovisual services
 - 1. Motion picture and video tape production
 - 2. Radio and television services
 - 3. Sound recording
 - 4. Other

- d) Financial services
 - 1. Insurance and insurance-related services
 - 2. Banking and other financial services (excl. insurance)
 - 3. Other

- e) Tourism and travel related services
 - 1. Hotels
 - 2. Motels
 - 3. Guesthouses
 - 4. Accommodation apartments
 - 5. Boarding houses
 - 6. Other accommodation facilities
 - 7. Travel agencies and tour operator services

8. Tourist guide services
 9. Other accommodation and tourist services
- f) Hiring Services
1. Facilities
 2. Transport
 3. Machinery, equipment, tools, appliances, hardware, utensils
 4. Other merchandise
- g) Entertainment Services
1. Theatres
 2. Nightclubs
 3. Amusement machines
 4. Bands for hire
 5. Billiard table operator
 6. Other entertainment services
- h) Transport Services
1. Sea Transport Services
 2. Air Transport Services
 3. Road Transport Services
 4. Other Transport Services
- i) Tradesmen Services
1. Plumber
 2. Electrician
 3. Motor Mechanic
 4. Repairer
 5. Blacksmith
 6. Welder
 7. Builder, carpenter
 8. Dressmaker
 9. Barber/Hairdresser
 10. Other tradesmen services
- j) Commission agents' services
- k) Delivery services
- l) Telecommunication services
- m) Computer and Related Services
- n) Research and Development Services
- o) Education and Training Services
- p) Real Estate Services
- q) Rental/Leasing Services without Operators
- r) News agency services
- s) Sporting and other recreational services

- t) Construction and related engineering services

2. Manufacturers/Processors

- a) Manufacturers
 1. Manufacturer of food products and beverages
 2. Manufacturer of tobacco products
 3. Manufacturer of textiles
 4. Manufacturer of clothing
 5. Manufacturer of footwear
 6. Manufacturer of paper and paper products
 7. Manufacturer of gases
 8. Manufacturer of chemicals and chemical products
 9. Manufacturer of rubber and plastic products
 10. Manufacturer of machinery and equipment
 11. Manufacturer of electrical items
 12. Manufacturer of motor vehicles
 13. Manufacturer of furniture
 14. Manufacturer of other items
- b) Brewery operations
- c) Butcher
- d) Bakery
- e) Quarry

3. Trade Facilities Operator

- a) Retail Outlets
 1. Retailer of food and other grocery goods
 2. Retailer of hardware goods and electrical appliances
 3. Retailer of motor vehicles
 4. Retailer of Petroleum products
 5. Retailer of Liquor
 6. Stall or booth operator of goods
 7. Fair operator
 8. Retailer of other goods
- b) Wholesale Outlets
 1. Wholesaler of food and other grocery goods
 2. Wholesaler of hardware good & electrical appliances
 3. Wholesaler of petroleum products
 4. Wholesaler of Liquor
 5. Wholesaler of other goods
- c) Distributors
 1. Distributors of merchandise
 2. Importer
 3. Exporter

4. Other

4. Food Providers

- a) Restaurants
- b) Catering Facilities
- c) Takeaway bars/Snack bars
- d) Cafes
- e) Stall or booth operators of food products
- f) Other food providers

5. Other Business Activities

- a) Includes any other business activity not captured under any of the above business categories.

C.

D. SCHEDULE FOUR

FORM OF BUSINESS LICENCE



MINISTRY OF LABOUR, COMMERCE AND INDUSTRIES
Government of Tonga

BUSINESS LICENCE

Licence No. _____ TIN _____

Name of Business: _____

Address of
Place of Business: _____

Business Activity for
Which Licence is
Issued: _____

Conditions of
Licence: _____

Date of Issue: _____ Expiry Date: _____

Signature of Business
Licensing Officer
Or Delegate _____

SCHEDULE FIVE

BUSINESS LICENCE RENEWAL FORM



MINISTRY OF LABOUR, COMMERCE AND INDUSTRIES
Government of Tonga

XX.

XXI.

XXII. BUSINESS LICENCE RENEWAL APPLICATION

BUSINESS NAME: *(to be completed by MLCI)* _____

LICENCE NUMBER: *(to be completed by MLCI)* _____

TIN (Taxpayer Identification Number): *(to be completed by MLCI where possible)* _____

BUSINESS ACTIVITY: *(to be completed by MLCI)* _____

ADDRESS OF PLACE OF BUSINESS:

Specific Location/Street Address: *(to be completed by MLCI)* _____

Postal Address (if different): *(to be completed by MLCI)* _____

Phone Number: _____ Fax Number: _____

Email Address: _____

A.

B. IF ANY OF THE ABOVE INFORMATION IS INCORRECT, PLEASE PROVIDE UPDATED DETAILS BELOW:

C.

BUSINESS NAME: _____

LICENCE NUMBER: _____

TIN (Taxpayer Identification Number): _____

BUSINESS ACTIVITY: _____

ADDRESS OF PLACE OF BUSINESS:

Specific Location/Street Address: _____

Postal Address (if different): _____

Phone Number: _____ Fax Number: _____

Email Address: _____

D. PLEASE PROVIDE ANY OTHER RELEVANT INFORMATION REGARDING CHANGES IN YOUR BUSINESS OPERATION: _____

E. _____

F. _____

G. _____

H.

I. FOR STATISTICAL PURPOSES ONLY:

(a)

(b) AVERAGE ANNUAL TURNOVER

- Less than \$10,000 \$10,000 - \$50,000 \$50,001 - \$100,000
 More than \$100,000

AVERAGE NUMBER OF EMPLOYEES (please insert number)

<i>Males:</i>	Full Time:	<i>Female:</i>	Full Time:
	- Senior Management		- Senior Management
	- Middle Management		- Middle Management
	- Lower Management		- Lower Management
	Part Time:		Part Time:
	Daily Paid:		Daily Paid:
	Non-Tongan:		Non-Tongan:

DECLARATION

I/We declare the above information is, to the best of my/our knowledge and belief, true and complete. I/We understand that if it is subsequently discovered that any statement contained herewith is false or misleading, or that relevant information has been withheld, my/our Licence renewal may be disqualified or, if the Business Licence has been renewed, it may be revoked.

Signature: _____

Name: _____

Date: ____ / ____ / ____

Signature: _____

Name: _____

Date: ____ / ____ / ____

Signature: _____

Name: _____

Date: ____ / ____ / ____

FOR OFFICIAL USE ONLY

Date of Receipt of Renewal: ____ / ____ / ____

Receiving Officer: _____

Receipt Number – Renewal Fee: _____

Recommendation: _____

Date of Recommendation: ____ / ____ / ____

Recommending Officer: _____

Approving Officer: _____

Date of Renewal: ____ / ____ / ____