

TRADE ACT

(Cap. 43:02)

TRADE REGULATIONS, 2011

(Published on 2nd September, 2011)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Interpretation
3. Licences to be issued
4. Amusement arcade licence
5. Auctioneer's licence
6. Cleaning services licence
7. Commercial hardware licence
8. Curio shop licence
9. Department store licence
10. Distributor's licence
11. Driller's licence
12. Dry-clean licence
13. Dry-clean depot licence
14. Florist licence
15. Fresh produce licence
16. Funeral parlour licence
17. General dealer's licence
18. General hire service licence
19. Gymnasium licence
20. Industrial hardware licence
21. Laundromat licence
22. Petrol filling station licence
23. Pharmacy or chemist licence
24. Plant hire service licence
25. Restaurant licence
26. Supermarket licence
27. Takeaway licence
28. Workshop licence
29. Licence-holders restricted to fixed premises
30. Licences reserved for citizens
31. Application for licence
32. Issue of licence
33. Failure to pay annual licence fee
34. Conditions attached to licence
35. Notice of licence transfer
36. Application for transfer of licence
37. Application for duplicate licence
38. Penalty
39. Revocation of Cap. 43:02 (Sub. Leg.)
40. Saving

FIRST SCHEDULE

SECOND SCHEDULE

IN EXERCISE of the powers conferred on the Minister of Trade and Industry by section 31 of the Trade Act, the following Regulations are hereby made —

1. These Regulations may be cited as the Trade Regulations, 2011.

Citation

2. In these Regulations, unless the context otherwise requires —

Interpretation

“agent” means a business which negotiates contracts between parties for the sale of goods;

“amusement arcade” means a business which lets out, for use on the premises, computer games, pool and snooker tables, darts or any other related games;

“auctioneer” means a business which sells goods by public auction;

“bookshop” means a shop selling stationery, computers and computer accessories, books or other reading materials;

“car wash” means a business which washes motor vehicles and household good, such as carpets and sofas, either manually or using an auto-mechanical system;

“cleaning services” means a business which renders the service of general cleaning of premises such as shops, offices and residential places, including office and household goods such as carpets, sofas and curtains;

“commercial hardware” means a business which sells small scale tools and equipment, together with building materials such as paint and putty, in small quantities;

“curio shop” means a business selling handicrafts, trophies, antiques and ornaments;

“department store” means a store of at least 1 500 square metres, which sells different categories of goods in different departments under one roof;

“distributor” means a business which distributes goods and products from a warehouse, at a wholesale scale;

“driller” means a business which drills for water;

“dry-clean” means a business which is engaged in washing with chemicals, drying and ironing of clothes and textile materials;

“dry-clean depot” means a business which receives and collects goods for dry-cleaning;

“florist” means a business selling flowers, live plants, dry seeds, agrochemicals, treated soil, aquaria and other related gardening accessories including vases, flower pots and garden ornaments;

“fresh produce” means a business that primarily sells dairy products, fruits and vegetables, bread, meat and meat products, poultry and poultry products, seafood, seasoning and spices;

“funeral parlour” means an establishment which is engaged in the business of funeral undertaking, and may sell coffins, wreaths, flowers, grave covers and tombstones;

“furniture shop” means a shop selling moveable household and office furnishings, electronics and electrical appliances, carpets, bedding, linen and other related goods;

“general clothing” means a shop which sells clothes, shoes and other accessories;

“general dealer” means a store selling a wide range of groceries and general merchandise, including unscheduled medicines or drugs;

- “general hire service” means a business which lets out small machinery, tools and equipment, together with domestic and office implements;
- “gymnasium” means a business which provides fitness and body-building services through the use of related equipment and machinery and fitness lessons;
- “haberdashery” means a business selling fabrics, sewing machines and related accessories;
- “hair or beauty parlour” means a business in which a person’s hair is cut and arranged, the services of pedicure, manicure, body massage, facial treatment and other related services are carried out, and which may sell hair and beauty products;
- “industrial hardware” means a business which sells large-scale tools and equipment, together with building materials in large quantities;
- “internet cafe or copy shop” means a business which renders the services of document printing, typing, faxing, laminating, photocopying, internet and other related services, and which may sell printing and photocopying paper, recordable compact disks, recordable cassettes, memory sticks, computer ink cartridges and toner;
- “laundromat” means a business which is engaged in the washing, drying and ironing of clothes;
- “money’s worth” means a token or related item representing money or an article of value;
- “motor dealer” means a business selling motor vehicles, earth-moving equipment, heavy-duty machinery, tractors, motorcycles and motor spare parts, including tyres, lubricants and other related accessories;
- “petrol filling station” means a business selling branded petrol, diesel and paraffin from a calibrated pump, and which may sell liquified petroleum gas, lubricants and motor vehicle accessories;
- “pharmacy or chemist” means a business which sells medicines or drugs, cosmetics, chemicals, chemical preparations, surgical goods, jewellery, goods for invalids, optical goods and infant food and products;
- “plant hire service” means a business which lets out heavy plant machinery, tools and equipment;
- “restaurant” means a business that prepares and sells meals, refreshments and non-alcoholic beverages for consumption on the premises;
- “supermarket” means a self-service store of at least 1 000 square metres, which sells a wide range of food items, household goods and wines, but not beers and spirits;
- “takeaway” means a business that prepares and sells meals, refreshments and non-alcoholic beverages, for consumption elsewhere;
- “wholesale” means a store of at least 1 500 square metres which sells goods in bulk per product or line item; and
- “workshop” means a business that maintains and repairs motor vehicles and other machinery and equipment.

3. A licensing committee shall licence the following trades or businesses —

Licences to be
issued

- (a) agent;
- (b) amusement arcade;
- (c) auctioneer;
- (d) bookshop;
- (e) car wash;
- (f) cleaning services;
- (g) commercial hardware;
- (h) curio shop;
- (i) department store;
- (j) distributor;
- (k) driller;
- (l) dry-clean;
- (m) dry-clean depot;
- (n) industrial hardware;
- (o) florist;
- (p) fresh produce;
- (q) funeral parlour;
- (r) furniture shop;
- (s) general clothing;
- (t) general dealer;
- (u) general hire service;
- (v) gymnasium;
- (w) haberdashery;
- (x) hair or beauty parlour;
- (y) internet cafe' or copy shop;
- (z) laundromat;
- (aa) motor dealer;
- (bb) petrol filling station;
- (cc) pharmacy or chemist;
- (dd) plant hire service;
- (ee) restaurant;
- (ff) supermarket;
- (gg) takeaway;
- (hh) wholesale; or
- (ii) workshop.

4. An amusement arcade licensee shall not —

Amusement
arcade
licence

- (a) provide any games of chance for money or money's worth on the licensed premises; or
- (b) allow any alcoholic beverages to be taken into the licensed premises.

5. (1) A person shall not, whether on his own account or as an employee of any other person, conduct a public auction sale, unless he has, prior to such auction sale, obtained an auctioneer's licence.

Auctioneer's
licence

(2) The provisions of subregulation (1) shall not apply to any employee of the holder of an auctioneer's licence whose name is endorsed on such licence, in respect of any sale under subregulation (1) carried out on behalf of the holder of the licence.

(3) An auctioneer licensee may —

- (a) sell goods of any variety; and
- (b) conduct auction sales anywhere in Botswana.

Cleaning services licence	(4) An auctioneer licensee shall not conduct a public auction sale unless he has obtained prior written permission from a member of the Botswana Police Service of the rank of Sergeant or above to conduct the public auction sale. 6. A cleaning services licensee may deliver services at a customer's business or residence.
Commercial hardware licence	7. A licensing committee shall not issue a commercial hardware licence to an applicant who intends to sell liquified petroleum gas — (a) if the applicant is located in an area zoned as commercial; or (b) unless such applicant has adhered to the safety standards of the Botswana Bureau of Standards, for the storage and handling of liquified petroleum gas.
Curio shop licence Cap. 42:09	8. The holder of a tourism enterprise licence issued under the Tourism Act shall not require a curio shop licence to operate a curio shop in the licensed premises.
Department store licence	9. (1) A department store licensee shall not sell motor vehicles, petrol, diesel, paraffin or liquified petroleum gas in the licensed premises. (2) The holder of a licence reserved for a citizen of Botswana under regulation 30, in respect of a reserved trade or business, may carry out such trade or business within a department store owned by a non-citizen.
Distributor's licence	10. (1) The holder of a distributor's licence shall carry out his business from a warehouse of at least 1 500 square metres. (2) The requirement under subregulation (1) shall be specified in a distributor's licence. (3) Notwithstanding the provisions of subregulation (1), the holder of a distributor's licence may distribute goods and products anywhere in Botswana.
Driller's licence	11. (1) A licensing committee shall not issue a driller's licence unless an applicant for such a licence has obtained permission, in writing, from the Department of Water Affairs. (2) The holder of a driller's licence — (a) shall carry out his business from a fixed office specified in the licence; and (b) may carry out drilling work anywhere in Botswana.
Dry-clean licence	12. A licensing committee shall not issue a dry-clean licence unless the proposed premises to be used by an applicant for such a licence has a functional drainage system.
Dry-clean depot licence	13. The holder of a dry-clean licence under regulation 12 shall not require a dry-clean depot licence.
Florist licence Cap. 35:09	14. (1) A florist licensee may sell agrochemicals if he is licensed to do so under the Agrochemicals Act. (2) A person who owns a plant nursery shall not require a florist licence.
Fresh produce licence	15. A person who owns a farm shall not require a fresh produce licence to sell fresh farm produce.
Funeral parlour licence	16. A funeral parlour licensee may prepare corpses for burial or cremation.

17. (1) The holder of a general dealer's licence shall not sell — (a) groceries and general merchandise for which a fresh produce licence, motor dealer's licence or restaurant licence is required; and (b) goods for which a petrol filling station licence is required, except for paraffin, liquified petroleum gas, lubricants and motor vehicle accessories. (2) A licensing committee shall not issue a general dealer's licence to an applicant who intends to sell liquified petroleum gas unless such applicant has adhered to the safety standards of the Botswana Bureau of Standards, for the storage and handling of liquified petroleum gas.	General dealer's licence
18. A general hire service licensee may deliver goods or services at a customer's business or residence.	General hire service licence
19. A gymnasium licensee may sell non-alcoholic beverages, sportswear and energy supplements.	Gymnasium licence
20. A licensing committee shall not issue an industrial hardware licence to an applicant who intends to sell liquified petroleum gas unless such applicant has adhered to the safety standards of the Botswana Bureau of Standards, for the storage and handling of liquified petroleum gas.	Industrial hardware licence
21. A licensing committee shall not issue a laundromat licence unless the proposed premises to be used by an applicant for such a licence has a functional drainage system.	Laundromat licence
22. A licensing committee shall not issue a petrol filling station licence to an applicant unless such applicant has adhered to the safety standards of the Botswana Bureau of Standards, for the storage and handling of liquified petroleum gas, petrol, diesel and paraffin.	Petrol filling station licence
23. A licensing committee shall not issue a pharmacy or chemist licence to an applicant unless such applicant has obtained, from the Ministry of Health, a letter stating that the pharmacy or chemist is owned by a qualified pharmacist or chemist.	Pharmacy or chemist licence
24. A plant hire service licensee may deliver goods or services at a customer's business or residence.	Plant hire service licence
25. (1) A restaurant licensee may prepare food outside the licensed premises, for catering purposes only.	Restaurant licence
(2) A restaurant licensee who has been issued with a bar liquor licence under the Liquor Act may serve liquor in an unsealed container, to a person who takes a meal in the licensed premises, for consumption on the premises.	Cap. 43:11
(3) A licensing committee shall not issue a restaurant licence to an applicant unless such applicant's premises — (a) has a kitchen and sitting facilities; and (b) has an oil or water separator trap.	
26. A supermarket licensee who has been issued with a bottle store liquor licence under the Liquor Act shall —	Supermarket licence Cap. 43:11
(a) restrict access to the section of the premises where wines are kept, by engaging a security officer to do so; (b) have a separate cash till for the sale of wines; and (c) comply with the conditions set out in the Liquor Act in respect of the bottle store liquor licence.	Cap. 43:11

Takeaway
licence

27. (1) A takeaway licensee may prepare food outside the licensed premises, for catering purposes only.

(2) A licensing committee shall not issue a takeaway licence to an applicant unless such applicant's premises has an oil or water separator trap.

Workshop
licence

28. (1) A workshop licensee may, in maintaining and repairing motor vehicles, carry out the servicing, panel-beating and maintenance of such motor vehicles.

(2) A licensing committee shall not issue a workshop licence to an applicant unless such applicant's premises has —

(a) an oil or water separator trap; and

(b) a wash bay.

Licence-
holders
restricted to
fixed
premises

29. A holder of the following licences shall, subject to the right to use other premises for storage only, be restricted to the fixed premises specified in the licence —

(a) amusement arcade licence;

(b) bookshop licence;

(c) car wash licence;

(d) cleaning services licence;

(e) commercial hardware licence;

(f) curio shop licence;

(g) department store licence;

(h) dry-clean licence;

(i) dry-clean depot licence;

(j) florist licence;

(k) fresh produce licence;

(l) funeral parlour licence;

(m) furniture shop licence;

(n) general clothing licence;

(o) general dealer's licence;

(p) general hire service licence;

(q) gymnasium licence;

(r) haberdashery licence;

(s) hair or beauty parlour licence;

(t) industrial hardware licence;

(u) internet cafe or copy shop licence;

(v) laundromat licence;

(w) motor dealer's licence;

(x) petrol filling station licence;

(y) pharmacy or chemist licence;

(z) plant hire service licence;

(aa) restaurant licence;

(bb) supermarket licence;

(cc) wholesale licence; and

(dd) workshop licence.

30. The following licences shall be reserved for citizens of Botswana or for companies wholly owned by citizens of Botswana —

Licences reserved for citizens

- (a) agent's licence;
- (b) auctioneer's licence;
- (c) car wash licence;
- (d) cleaning services licence;
- (e) curio shop licence;
- (f) dry-clean depot licence;
- (g) florist licence;
- (h) fresh produce licence;
- (i) funeral parlour licence;
- (j) general clothing licence;
- (k) general dealer's licence;
- (l) general hire service licence;
- (m) hair or beauty parlour licence;
- (n) internet cafe or copy shop licence;
- (o) laundromat licence;
- (p) petrol filling station licence; and
- (q) takeaway licence.

31. (1) A person who makes an application for a licence specified under regulation 3 shall do so in Form 1 as set out in the First Schedule.

Application for licence

(2) An application under subregulation (1) shall be accompanied by a non-refundable application fee of P100.

(3) A person whose application for a licence has been approved by a licensing committee shall pay a licence fee specified against the licence he applies for as set out in the Second Schedule.

32. A licensing committee shall, under section 13 of the Act, issue to an applicant, a licence in Form 2 as set out in the First Schedule.

Issue of licence

33. A licensee who fails to pay the annual licence fee set out in the Second Schedule shall be liable to a fine of P100, and, in the case of a continuing offence, to a further fine of P100 for every month after the first month during which the offence continues.

Failure to pay annual licence fee

34. A licensee shall ensure that the licensed premises are maintained according to the standards required by the licensing committee which issued his licence.

Conditions attached to licence

35. (1) A licensee shall give notice to the licensing committee —

- (a) of his intention to transfer a trade licence to another person; and
- (b) of his intention to transfer a trade licence from the licensed premises to other premises.

Notice of licence transfer

(2) A notice under subregulation (1) shall be made in Form 3 as set out in the First Schedule.

36. (1) An application for a transfer of a licence under section 17 (1) of the Act shall be in Form 4 as set out in the First Schedule and shall be accompanied by a non-refundable application fee of P100.

Application for transfer of licence

(2) A licensee shall transfer a licence referred to in regulation 30, to a citizen of Botswana only.

(3) A licensee whose application under subregulation (1) has been approved by a licensing committee shall pay a licence transfer fee of P100.

Application
for
duplicate
licence

37. (1) An application for a duplicate licence under section 18 of the Act shall be in Form 5 as set out in the First Schedule and shall be accompanied by a non-refundable application fee of P100.

(2) A licensee whose application under subregulation (1) has been approved by a licensing committee shall pay a duplicate licence copy fee of P100.

Penalty

38. A person who contravenes any provision of these Regulations commits an offence and is liable to a fine not exceeding P1,000 or to imprisonment for a term not exceeding 12 months, or to both.

Revocation of
Cap. 43:02
(Sub. Leg.)

39. The Trade Regulations are hereby revoked.

Saving

40. The following licences issued by a licensing committee before the coming into force of these Regulations shall remain valid until their dates of expiry —

- (a) boutique licence;
- (b) hairdresser's licence;
- (c) hardware licence;
- (d) hire service licence;
- (e) miscellaneous trade or business licence; and
- (f) supermarket or chain store licence.

FIRST SCHEDULE

FORMS

Form 1

TRADE ACT
(Cap. 43:02)

(reg. 31(1))

APPLICATION FORM

A. PROPOSED BUSINESS

Type of business/licence applied for

Location of proposed business

B. PARTICULARS OF APPLICANT

1. For Business Names

Name and address

Business name

.....

.....

.....

.....

2. For Companies

(a) Registered name of company

(b) Trading name of company if different from (a)

Percentage share of citizen equity holding

Particulars of all shareholders:

Name

Nationality

Address

% share in
equity holding

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3. Level of investment (capital to be invested in the business)

(a) Capital investment P.....

(b) Assets P.....

4. Anticipated number of employees:

C. PARTICULARS OF LAND PREMISES

1. Plot no. or Land Board certificate no.

2. Date of plot allocation

3. Is the plot zoned commercial/industrial?

4. If the premises are leased, state the name of the owner

5. Size of the premises (sq. m. of floor space)

6. Have your premises been inspected and certified suitable by the Environmental Health Unit of the Council?
.....

D. RESIDENCE AND WORK PERMITS (FOR NON-CITIZEN APPLICANTS ONLY)

1. Date of expiry of resident permit

2. Date of expiry of work permit

E. GENERAL INFORMATION

1. Have you ever been convicted in the last 2 years, of any offence involving dishonesty?
.....

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

Application received by:

Date.....

Signature.....

Decision by the Licensing Committee

.....

.....

Date

Chairperson's Signature.....

The applicant must submit the following with the application form for a trading licence —

- 1. Certificate of incorporation or registration and the latest Form of Annual Return.**
- 2. Proof of availability of business premises (written undertaking lease in lieu of agreement or title deed).**
- 3. Satisfactory zoning report.**
- 4. Satisfactory Environmental Health Inspection report for the premises.**
- 5. Certified copy of passport for non-citizens and identity card for citizens.**

Form 2

TRADE ACT
(Cap. 43:02)

(reg. 32)

No.

TRADE LICENCE

Licenceissued onunder the provisions
of the Trade Act and the Regulations made thereunder.

To: (name and company) whereas the said licence holder is
hereby licensed to carry on the business of
and trade in the following goods or services:
at

Subject to the payment of an annual licence fee and compliance with the following conditions:

.....
This licence is valid for an indefinite period subject to compliance with the conditions upon
which it is issued.

.....
Licensing Officer

.....
Station

Form 3

**TRADE ACT
(Cap. 43:02)**

(reg. 35 (2))

NOTICE OF INTENTION TO TRANSFER TRADE LICENCE

Part A

Notice is hereby given in terms of section 17 of the Trade Act that I/We
..... have disposed of my/our entire interest in carrying on the business of
..... towho will continue to trade at the same premises
and under the same style of a

Part B

Notice is hereby given in terms of section 17 of the Trade Act that I/We intend to transfer my/our
business of from
..... to and I/We shall continue
to trade under the name of and the same style.

Name: Date:

Address:

Note: Fill the part that is applicable to you.

Form 4

**TRADE ACT
(Cap. 43:02)**

(reg. 36 (1))

APPLICATION FOR TRANSFER OF TRADE LICENCE

Name and address of licensee

.....

.....

Type of licence

Date of issue

Name and address of transferee

.....

.....

Physical address of new premises

.....

.....

Nationality of transferee

Date of application

Applicant's signature

The applicant must submit the following with the application form for the transfer of a trade licence —

1. Certificate of incorporation or registration and the latest Form of Annual Return.
2. Satisfactory Environmental Health Inspection report for the premises.
3. Certified copy of passport for non-citizens and identity card for citizens.

Form 5

**TRADE ACT
(Cap. 43:02)**

(reg. 37 (1))

APPLICATION FOR DUPLICATE TRADE LICENCE

Name and address of the licensee

Type of licence

Date of issue

How was the licence lost?.....

Date of application:.....

Signature of applicant:.....

For application for a duplicate licence, submit a copy of the Police report.

SECOND SCHEDULE

FEEES

(reg. 31 (3) and reg. 33)

A. LICENCE FEE

<i>Type of Licence</i>	<i>Fee</i>
1. Agent's licence	P1,000
2. Amusement arcade licence	P500
3. Auctioneer's licence	P1,200
4. Bookshop licence	P750
5. Car wash licence	P150
6. Cleaning services licence	P200
7. Commercial hardware licence	P1,000
8. Curio shop licence	P500
9. Department store licence	P2,000
10. Distributor's licence	P1,500
11. Driller's licence	P1,000
12. Dry-clean licence	P1,500
13. Dry-clean depot licence	P500
14. Florist licence	P250
15. Fresh produce licence	P250
16. Funeral parlour licence	P1,500
17. Furniture shop licence	P1,500
18. General clothing licence	P750
19. General dealer's licence	P250
20. General hire service licence	P500
21. Gymnasium licence	P1,000
22. Haberdashery licence	P750
23. Hair or beauty parlour licence	P750
24. Industrial hardware licence	P1,000
25. Internet cafe or copy shop licence	P500
26. Laundromat licence	P100
27. Motor dealer's licence	P1,500
28. Petrol filling station licence	P500
29. Pharmacy or chemist licence	P750
30. Plant hire service licence	P500
31. Restaurant licence	P1,000
32. Supermarket licence	P1,500
33. Takeaway licence	P150
34. Wholesale licence	P1,500
35. Workshop licence	P1,500

B. ANNUAL LICENCE FEE

25 per cent of a licensee's
licence fee

MADE this 24th day of August, 2011.

VINCENT T. SERETSE,
*Acting Minister for Trade and
Industry.*