



Bill No. 13 *Trade (Licensing) (Amendment) Bill*

2012

THE TRADE (LICENSING) (AMENDMENT) BILL, 2012.

MEMORANDUM.

1. The object of this Bill is to amend the Trade (Licensing) Act to streamline the procedures for the licensing of trade and make them consistent with the Government policy on trade liberalisation and the obligations of Uganda under the East African Community Common Market Protocol on free trade, free movement of goods and services and lifting of trade barriers; to clarify the businesses that are required to obtain licences; to change the validity of a trading licence and for related matters.
2. At present, the Trade (Licensing) Act requires persons engaged in trade to obtain licences. Whereas the Act does not expressly mention trade in services, the requirement of a licence for trade in services is implied in the Act since trade includes trade in both goods and services.

In addition section 2 of the Act prohibits non-citizens from trading outside a city, municipality or town and in specified goods. This is not consistent with the Government policies on trade liberalisation and investment.

The Bill also seeks to clarify the inconsistency created by the law in section 8 which exempts persons who are licensed by their regulatory bodies from obtaining trade licences by making a clear distinction between licences issued by regulatory

authorities such as the Bank of Uganda, Law Council, Medical and Dental Practitioners Council, Engineers and Architects Registration Boards, since these are licences to ensure that the persons under those bodies are qualified and competent to practice those trades or professions.

The Act also exempts trading in markets from the requirement of a trading licence yet the market areas have due to the socio economic conditions, changed and there are now banks, insurance companies, internet cafes, restaurants, ICT systems and other businesses within the market that were traditionally confined to areas outside market areas. This exemption creates unfairness for similar businesses operating outside the market areas which are required to obtain licences whereas those within the market trading in similar goods or services are exempted.

The Bill therefore seeks to create equity in the licensing of trades and businesses by removing this exemption.

3. Sections 13, 17 and 21 require that every trading licence issued under the Act expires on 31st December of each year, irrespective of when the licence was issued. In effect, a person can pay more than once for a trading licence in the same calendar year.

The Bill seeks to remove this by providing for every licence issued to be valid for twelve calendar months from the date of issue.

4. The Act further requires hawkers (section 16) and travelling wholesalers (section 20) to obtain licences from the local government within whose jurisdiction they operate. However, by the nature of their businesses, hawkers and travelling wholesalers are mobile and therefore trade in more than one local government, yet a trade licence is issued by every local government.

The Bill therefore provides for a licence to be issued by the Ministry of trade in the case of hawkers or travelling wholesalers operating in more than one local government to save the hawkers and travelling wholesalers from having to obtain a trading licence from every local government.

AMELIA KYAMBADDE, MP
Minister of Trade, Industry and Cooperatives.

ARRANGEMENT OF CLAUSES

Clause.

1. Amendment of section 1 of the Trade (Licensing) Act, Cap 101.
2. Amendment of section 2 of the Principal Act.
3. Amendment of section 5 of the principal Act.
4. Repeal of section 7 of the principal Act.
5. Amendment of section 8 of the Principal Act.
6. Amendment of section 11 of the principal Act.
7. Replacement of section 13 of the principal Act.
8. Amendment of section 15 of the principal Act.
9. Amendment of section 16 of the principal Act.
10. Replacement of section 17 of the principal Act.
11. Amendment of section 20 of the principal Act.
12. Replacement of section 21 of the principal Act.
13. Amendment of section 25 of the principal Act.
14. Amendment of section 26 of the principal Act.
15. Insertion of new section 33A and 33B.
16. Schedules.

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6. Amendment of section 11 of the principal Act.
7. Replacement of section 13 of the principal Act.
8. Amendment of section 15 of the principal Act.
9. Amendment of section 16 of the principal Act.
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12. Replacement of section 21 of the principal Act.
13. Amendment of section 25 of the principal Act.
14. Amendment of section 26 of the principal Act.
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(b) substituting for subsection 1(h) the following—

““(h) trade” or “trading” means the selling of goods or services for which a licence under this Act is required”

2. Amendment of section 2 of the Principal Act.

Section 2 of the principal Act is amended—

(a) in subsection (1) by substituting for the words “local administrations and urban authorities” the following—

“local governments”;

(b) by repealing subsections (3) and (4);

(c) in subsection (5) by substituting for the words “local administrations and urban authorities” the following—

“local governments”.

3. Amendment of section 5 of the principal Act.

Section 5 of the principal Act is amended by inserting immediately after subsection (3) the following—

“(4) This section does not apply to a person who is a citizen of a Partner State of the East African Community.

(5) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding twelve months or both.”

4. Repeal of section 7 of the principal Act.

Section 7 of the principal Act is repealed.

5. Amendment of section 8 of the Principal Act.

Section 8 of the principal Act is amended—

THE TRADE (LICENSING) (AMENDMENT) BILL, 2012.

A Bill for an Act

ENTITLED

THE TRADE (LICENSING) (AMENDMENT) ACT, 2012.

An Act to amend the Trade (Licensing) Act to provide that the restriction on trading by noncitizens in certain areas, goods and services does not apply to citizens of the Partner States of the East African Community; to convert the fines and other financial amounts into currency points and revise the penalties; to provide the procedure of renewal and appeal against refusal; to change the period of validity of a licence; to provide for the keeping of books of accounts and for related purposes.

BE IT ENACTED by Parliament as follows:

1. Amendment of section 1 of the Trade (Licensing) Act, Cap. 101.

The Trade (Licensing) Act, in this Act referred to as the principal Act is amended by—

- (a) inserting immediately before subsection 1(a) the following—

“(a1) currency point” has the meaning assigned to it in Schedule 1”

“13. Duration of trading licence.

A trading licence is valid for twelve months from the date of issue.”

8. Amendment of section 15 of the principal Act.

Section 15 of the principal Act is amended in subsection (3) by substituting for “two thousand shillings or to a term of imprisonment not exceeding six months or to both” the words “forty eight currency points or imprisonment not exceeding two years or both”.

9. Amendment of section 16 of the principal Act.

Section 16 of the principal Act is amended by substituting for subsections (7) and (8) the following—

“(7) The licensing authority may—

- (a) refuse to grant a hawkers licence; or
- (b) revoke a hawkers licence where it is satisfied that the terms and conditions upon which the licence was granted have been contravened.

(8) Where the licensing authority refuses to grant a hawker’s licence or revokes a hawker’s licence, the licensing authority shall within fourteen days give reasons in writing for the refusal or revocation.

(9) A person aggrieved by a decision of the licensing authority to refuse to grant a hawker’s licence or revoke a hawker’s licence may appeal to the appeal authority constituted by the Minister by statutory instrument.

(10) For the purposes of this section, the licensing authority, in the case of an application for a hawkers licence to trade in—

- (a) more than one local government, is the person appointed by the Minister by statutory instrument;

(a) in subsection (1) by inserting immediately after “goods” the words—

“or services”

(b) in subsection (2) by repealing paragraphs (c) and (f);

(c) by inserting immediately after subsection (2) the following—

“(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both.”

6. Amendment of section 11 of the principal Act.

Section 11 of the principal Act is amended by substituting for subsections (3) and (4) the following—

“(3) The licensing authority may—

(a) refuse to grant a trading licence; or

(b) revoke a trading licence where it is satisfied that the terms and conditions upon which the licence was granted have been contravened.

(4) Where the licensing authority refuses to grant a licence or revokes a licence, the licensing authority shall within fourteen days give reasons in writing for the refusal or revocation.

(5) A person aggrieved by a decision of the licensing authority to refuse to grant a trading licence or revoke a trading licence may appeal to the appeal authority constituted by the Minister by statutory instrument”.

7. Replacement of section 13 of the principal Act.

For section 13 of the principal Act there is substituted the following—

12. Replacement of section 21 of the principal Act.

For section 21 of the principal Act there is substituted the following—

“21. Duration of a travelling wholesaler’s licence.

A travelling wholesaler’s licence is valid for twelve months from the date of issue.”

13. Amendment of section 25 of the principal Act.

Section 25 of the principal Act is amended—

(a) by substituting for subsection (1)(b), the following—

“(b) within the jurisdiction of the licensing authority that issued the licence.”

(b) by inserting immediately after subsection (1), the following—

“(1a) The holder of a trading licence may within the jurisdiction of the licensing authority that issued the licence, change premises in respect of which the licence is issued.

(1b) Where the holder of a licence changes premises in accordance with subsection (1a), the holder of the licence shall within fourteen days apply to the licencing authority to endorse the new premises on the licence.”

14. Amendment of section 26 of the principal Act.

Section 26 of the principal Act is amended by substituting for subsection (5) the following—

“(5) This section does not apply to a person holding a licence below the value specified in Schedule 2.”

- (b) only one local government is the licensing authority specified in section 9.

(11) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both.”

10. Replacement of section 17 of the principal Act.

For section 17 of the principal Act there is substituted the following—

“17. Duration of a hawkers licence.

A hawker’s licence is valid for twelve months from the date of issue.”

11. Amendment of section 20 of the principal Act.

Section 20 of the principal Act is amended by substituting for subsections (8) and (9) the following—

“(8) The licensing authority may—

- (a) refuse to grant a travelling wholesalers licence; or
- (b) revoke a travelling wholesalers licence where it is satisfied that the terms and conditions upon which the licence was granted have been contravened.

(9) Where the licensing authority refuses to grant a travelling wholesaler’s licence or revokes a travelling wholesaler’s licence the licensing authority shall within fourteen days give reasons in writing for the refusal or revocation.

(10) A person aggrieved by a decision of the licensing authority to refuse to grant travelling wholesaler’s licence or revoke a travelling wholesaler’s licence may appeal to the appeal authority constituted by the Minister by statutory instrument”

- (b) by inserting immediately after “Schedule 2” the following new Schedule—

“SCHEDULE 3

s. 26 (5)

Persons exempted from keeping books of accounts.

A person holding a licence below the value of three currency points is exempt from the requirement of keeping books of accounts.”

15. Insertion of new section 33A and 33B.

The principal Act is amended by inserting immediately after section 33 the following—

“33A. Transmission of returns for licences granted.

(1) Every licensing authority shall transmit to the Minister a return indicating the licences issued in the relevant local government.

(2) The minister shall, by statutory instrument, make Regulations to prescribe the manner and form of transmission of returns under subsection (1).

33B. Minister’s power to amend Schedule 1 and 3.

The Minister may by statutory instrument amend Schedule 1 or 3.”

16. Schedules.

(1) The principal Act is amended—

- (a) by renaming the “Schedule” as “Schedule 2”;
- (b) by substituting for “Schedule” wherever it appears in sections 8, 11, 16, 20, 24, 25 and 30, the words “Schedule 2”;

(2) The principal Act is amended—

- (a) by inserting immediately before “Schedule 2” the following new Schedule—

“SCHEDULE 1

Currency Point

s. 1 (a1)

One currency is equivalent to twenty thousand shillings”