

Business Licensing and Registration Act 2019, & Business Licensing and Registration Regulations 2020

Repeal the old and introduce the New

- The Business Licensing and Registration Act 2019 and its Regulations of 2020 repeal the old Trading Enterprises Act of 1993 and the Trading Enterprises Regulations of 1999 and its amendments
- The new law introduces a modern and user/investor friendly legal framework
- Streamline licensing processes/procedures
- Do away with the Board, applications are now considered by the Licensing officer

Objective of the law(sephoeo sa molao)

- **Kholo le Ntlatso ea likhoebo**

to facilitate promotion of private sector development through inclusion of all types of businesses into the formal sector , provide for simple and short business licensing and registration procedures; facilitate speedy issuing of licenses and registration of businesses.

Salient features of the Law

Simplification (Nolofatso e tlišoang ke molao)

- sets out licensing and registration procedures that are simple, short, cost effective and responsive to the needs of the business operators.

On-line services (tsebeliso ea marang-rang)

- the licensing and registration application process can be done electronically. This makes the procedures short and fast and will save business operators time and money as applications are considered as soon as they are lodged.

Risk based system

- The law introduces a risk based system: businesses which do not pose any risk will be registered either before or after the operations have commenced.
- These type of businesses do not pose a threat to the environment, public health, security and safety.

Business Identification Card

- identity of a business , valid for 3 years ,unless the business or a holder ceases to exist
- sets out a procedure for the issuance of business registration identity card to business operators. The business registration identity card will be used by all public authorities in their dealing with the business enterprises. This will ensure that a business can be easily identified by its business identity number by all public authorities rather than a different number for each authority.

Reserved Businesses

- The Regulations provide for Reserved Business activities which are exclusively reserved for the citizens of Lesotho. This will give Basotho an opportunity to grow their businesses in other sectors without fear of facing stiff competition from foreign firms/companies/individuals.

Rights of consumers: getting back the long lost coins

- protect the rights of the consumers to have their change given back to them, especially when the change is in small denominations (e.g.1 cent, 2 cent coins). In the event that the change is given in smaller denominations, the law makes it mandatory that such a change be rounded off to the higher denomination (10 cents or 20 cents) . The consumer will have a right to receive their change back even if it means it is at the expense of the seller but not the other way round.

Establishment of the Business Enterprises Licensing Appeals Tribunal

Lekhotla la Likhoebo

- Under the new law, the Trading Enterprises Appeal Tribunal will hear appeals from decisions made pursuant to exercise of power under the Act.
- This provides more transparency to the legal process and maintains independence

Important concepts-Tokomane tsa Bohlokoa bakeng sa ho hoeba

Essential documents before operating in Lesotho!!!!

- Business Permit: a document that authorises a foreign business to engage in a business in Lesotho. **Applicable only to foreign businesses /enterprises**
- Business Identification Card(“passport”): in order to operate in Lesotho all businesses must possess this document. **Applicable to both citizens and foreigners.**
- License : issued only to businesses that pose a risk to Public health, environment and safety and security. The holder must have Business Permit(foreign business), Business ID card.

Business Permit Requirements

Requirements that must be satisfied before a Business Permit can be issued to foreign business:

- A Business plan which must state
 - the minimum Capital resource
 - Employment generation, not less than 6 citizens of Lesotho
 - Technology transfer and business expertise (Contracts)
 - Advancement of business undertakings

Business ID card requirements

- Certificate of occupancy under Building Control Act 1995
- Business permit (in case of a foreign enterprise)
- Registration fee
- Validity period: 3 years, renewable upon payment
- The Business ID lapses upon death of the holder, dissolution or liquidation of entity

License Requirements (s.4&5)

- Capital resources
- Location
- Employment generation
- Business permit in case of a foreign business
- Certificate of occupancy
- Fire protection plan
- Emergency exit Map
- A recommendation letter from a public authority

Duration of licence (s.7®.9)

- A licence shall be renewed annually

Grounds for Suspension & cancellation(s.12)

- Closure of business operations
- Failure to comply
- Misuse of the license (fraud, allowing another person to use the licence)
- Failure to comply with the conditions in the license
- If a licensee is foreigner: i) operates without a business permit ii) convicted of an offence under immigration or labour laws
- Failure to comply with Health and safety laws
- Etc.....

Extension and exemption

- development of SMMEs
- The Minister may exempt small, micro or medium enterprises from certain provisions in this Act to give them time to grow/develop if compliance is proven burdensome

Offences and Penalties

- operating without a licence
- providing false information
- obstructing the work of the inspector
- Failure to renew license or business registration
- Failure to produce licence business identification card
- engaging in bribery or acts of corruption
- penalties range from M50,000-M100,000.
- Administrative penalties: the Minister may publish administrative monetary penalties or fines for non-compliance with the Act