

3. Trade or business required to be licensed(1) No person shall carry on any trade or business for which a licence is required under this Act, unless the person holds a licence authorising him to carry on such trade or business.(2) Subsection (1) shall not apply to a person who has been issued a hawker's registration certificate or a street vendor's certificate under any enactment authorising the person to carry on trade or business as a hawker or street vendor.(3) A person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding P10 000 or to imprisonment for a term not exceeding three years, or to both.4. Establishment of licensing committees(1) There is hereby established a licensing committee for each council, the members of which committee shall be appointed by the Minister.(2) Every committee shall consist of the following members—(a) a senior officer of the council who shall not be below the rank of C1;(b) a Commercial Officer from the council;(c) a member of the private sector, who shall be Chairman;(d) a Councillor; and(e) a police officer of the rank of Sergeant or above.(3) A member of a committee shall hold office for such period as may be specified in the notice appointing him, which period shall not exceed three years.(4) A member of a committee may be re-appointed for a further term of office not exceeding three years.(5) Three quarters of the members of a committee shall form a quorum.5. Disqualification for appointment as committee memberNo person shall be appointed as a member of a committee, nor shall any person be qualified to hold office as a member of a committee, who—(a) has in terms of any law in force in any country—(i) been adjudged or otherwise declared insolvent or bankrupt, and has not been rehabilitated or discharged,(ii) made an assignment to, or arrangement or composition with, his creditors, which has not been rescinded or set aside; or(b) has, within a period of five years immediately preceding the date of his proposed appointment, been convicted—(i) in Botswana, of a criminal offence, or(ii) outside Botswana, of an offence which, if committed in Botswana, would have been a criminal offence, and sentenced by a court of competent jurisdiction to imprisonment for six months or more without the option of a fine, whether that sentence has been suspended or not, and for which he has not received a free pardon.6. Vacation of office of member of committeeA committee member shall vacate his office and his office shall become vacant—(a) if he becomes disqualified in terms of section 5 to hold office as a committee member;(b) if he is adjudged bankrupt or insolvent;(c) if he is absent from three consecutive meetings of the committee without reasonable excuse;(d) upon his death;(e) upon the expiry of one month's notice, given in writing to the Minister, of his intention to resign his office;(f) upon the expiry of such time as the Minister may specify in writing, notifying him of his removal from office by the Minister;(g) if he becomes mentally or physically incapable of performing his duties as a member of a committee; or(h) if he is convicted of an offence under this Act, or under any other Act for which he is sentenced to imprisonment for a term of six months or more without the option of a fine.7. Removal and suspension from office by Minister(1) The Minister may, if he is satisfied that a committee member has acted improperly as such member, or is mentally or physically incapable of performing his duties efficiently, require that member, in writing, to vacate his office within such time as he may specify.(2) The Minister shall, in writing, suspend from office, a committee member against whom criminal proceedings are instituted for an offence in respect of which a sentence of imprisonment may be imposed, and whilst that member is so suspended, he shall not carry out any duties or be entitled to any remuneration or allowances as a member of the committee.8. Filling of vacancies of committeesOn the death of, or the vacating of office by, a committee member, the Minister shall appoint a person to take the place of the member who died or vacated his office until the expiry of the period during which such member would have otherwise continued in office.8A. Meetings and proceedings of licensing committee(1) A licensing committee shall meet weekly to discharge its functions.(2) The Chairperson shall preside over all meetings of the licensing committee and if the Chairperson is absent from a meeting, the members shall elect one of their number to act as Chairperson for that meeting.(3) The Chairperson may, at any time, convene a special meeting of the licensing committee when he or she considers it desirable to do so.(4) Four members of a licensing committee shall form a quorum.(5) Subject to the provisions of this Act, a licensing committee shall regulate its own procedure.(6) The decisions of a licensing committee shall be by a simple majority of votes and, in the event of an equality of votes, the Chairperson shall have a casting vote in addition to his or her deliberative vote.(7) An act, decision or proceeding of a licensing committee shall not be rendered invalid on account of the appointment of any member being defective or by reason of a vacancy in the membership of the committee, if the act was done, or the decision or the proceeding took place, in accordance with a majority vote of the persons who were, at the time, entitled to sit as members.8B. SecretariatThe Minister shall designate an office to be the Secretariat of a committee.8C. Functions of SecretariatThe Secretariat shall—(a) be responsible for the accurate and complete recording of the proceedings of a committee and the keeping of such records;(b) be responsible for arranging the business of the committee and shall carry out such other functions as a committee may direct;(c) be the liaison office between a committee, the Ministry, the applicants and the general public;(d) receive appeals made under section 21 (6) or section 21 (7) and submit them to the Regional Appeals Board or the Minister, as the case may be;(e) keep a register of licences issued under this Act; and(f) submit to the Minister data relating to the licences issued under this Act when required to do so by the Minister.9. Disclosure of interest(1) Where a member is present at a meeting at which is being discussed a matter in which the member has direct or indirect interest in a private capacity, the member shall, as soon as practicable after the

commencement of the meeting, disclose such interest and shall not, unless the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter.(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.(3) Where a member fails to disclose his interest in accordance with subsection (1) and a decision by a committee is made benefiting such member, such decision shall be null and void.(4) A member who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding P6 000 or to imprisonment for a term not exceeding two years, or to both.9A. Confidentiality(1) The members and any expert assisting a licensing committee shall observe and preserve the confidentiality of all matters coming before the committee, and such confidentiality shall subsist even after the termination of their terms of office or their expert mandates.(2) Any person to whom confidential information is revealed through working with a licensing committee, shall not disclose that information to any other person unless he or she is required to do so in terms of any written law.(3) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine not exceeding P6 000, or to imprisonment for a term not exceeding one year, or to both, and for a second or subsequent offence to a fine not exceeding P10 000, or to imprisonment for a term not exceeding two years, or to both.9B. Co-option of advisory personnelA licensing committee may co-opt any person to attend any meeting of the committee on any matter for the purpose of assisting or advising the committee, but such person shall have no right to vote.10. Application for a licenceA person shall make an application for a licence in such form as may be prescribed and shall submit the application to a licensing committee of the council in the council area he wishes to trade from.11. Licences to be issued under the ActA licensing committee shall—(a) licence, in accordance with the provisions of this Act, such trades or business as may be prescribed;(b) keep a register, in such form as may be prescribed, of all the licences it has issued; and(c) perform such other functions as may be assigned to it by the Minister under this Act.12. General principles affecting issue of licencesA licensing committee shall not issue a licence where it is satisfied that—(a) the applicant is below 18 years of age;(b) the issue of such licence would conflict with any approved or proposed town planning scheme or zoning area, or any health or other regulations;(c) the applicant is an unrehabilitated insolvent;(d) the applicant has surrendered his estate for the benefit of his creditors;(e) the applicant has, within a period of two years immediately preceding the date of the application, been convicted of an offence involving dishonesty;(f) the applicant does not qualify in terms of section 15 for the issue of a particular licence; or(g) the applicant is a non citizen and has failed to produce—(i) proof of registration of his business or company where the applicant is not an individual; or(ii) a valid identification document.13. Issue and duration of licence(1) The licensing committee shall, where it is satisfied that an application meets the requirements for the issue of a licence, issue to the applicant a licence containing such conditions as it may consider necessary.(2) A licence issued under this Act shall be valid for an indefinite period subject to—(a) compliance with the conditions upon which it is issued; and(b) payment by a licence holder of an annual licence fee as may be prescribed.14. ...15. Certain trades and businesses to be reserved for citizens(1) The Minister may make regulations declaring any trade or business to be a reserved trade or business and a licence for such reserved trade or business shall be issued only to citizens of Botswana or companies wholly owned by citizens of Botswana.(2) Regulations made in accordance with subsection (1) may further provide that only citizens of Botswana shall—(a) be entitled to carry on trade or transact business— (i) in such areas in the country as may be prescribed, or(ii) from such premises as may be prescribed; or(b) engage in specific types of businesses.(3) A joint venture of a medium business enterprise between a citizen and a non citizen may be granted a licence in a reserved trade or business where the citizen has a minimum beneficial ownership of 51 per cent of the joint venture:Provided that in such cases as may be approved by the Minister in writing upon the written application of the citizen partner, that citizen partner may hold less than 51 per cent in the joint venture.(4) A reserved trade or business such as a bakery or take away shall be run in a non citizen owned supermarket or chain store only where the person who owns that reserved trade or business is a citizen who is licensed to run such trade or business.16. Proof of shareholding(1) A trade or business licensed under section 15 (3) shall—(a) maintain shareholding in the trade or business of at least 51 per cent citizen; and(b) when requested to do so by the licensing committee, furnish the licensing committee with proof that its shareholding is in accordance with paragraph (a).(2) A person who contravenes the provisions of subsection (1) (b) shall be guilty of an offence and liable to a fine not exceeding P1 000.17. Transfer of licence(1) A person may, on application in such form as may be prescribed, apply to a licensing committee for a licence to be transferred to another person.(2) Without prejudice to the generality of subsection (1), a licensing committee may transfer a licence where—(a) the licensee is a citizen or wholly citizen owned company of Botswana holding a reserved licence, to another citizen or wholly owned citizen company;(b) the licence issued is in respect of specified premises, to another premises within the same licensing area;(c) the licensee has died, to his heir or beneficiary;(d) the licensee has been declared insolvent or has surrendered his estate for the benefit of his creditors, to his trustees; or(e) the licensee becomes subject to any legal disability, to his legal representatives.(3) For purposes of this section "transferring a licence" means reissuing a licence for a trade or business to a person other than the person who holds or has held the licence in respect of the trade or business.(4) Any person who transfers, or is the transferee of a licence in contravention of the provisions of this section shall be guilty of an offence and liable to a fine not exceeding P1 000, or to imprisonment for a term not exceeding two months, or to both.18. Issue of a duplicate licenceA licensee whose licence is lost, destroyed or mutilated, may make an application in such form and on payment of such fee as may be prescribed, to a licensing committee for a duplicate licence.19. Suspension of licence(1) A licensing committee may suspend a licence where an inspection report made in accordance with section 24 has recommended suspension.(2) A suspension under this section shall be for such period as the licensing committee may determine to enable the licensee to take remedial action so as to comply with such requirements of his licence and the provisions of this Act, the non compliance of which form the basis of the suspension of his licence.20. Revocation of licence(1) A licensing committee may revoke a licence where—(a) the licence was issued with conditions and the licensee has failed to satisfy those conditions;(b) the licensee has failed to comply with section 16;(c) a report made in accordance with section 24(2) has recommended revocation; or(d) the licensee has been

convicted of an offence under this Act.(2) A licensing committee may revoke a licence where a licensee has failed to take remedial action referred to under section 19(2) at the expiration of the time given thereunder.(3) A licensee shall be given three months to windup a business where his licence has been revoked under subsection (1).21. Regional Appeals Board(1) There is hereby established, for each region, a Regional Appeals Board.(2) The Minister shall, by notice published in the Gazette, appoint members of the Regional Appeals Board.(3) A Board established in accordance with subsection (1) shall consist of the following members—(a) a member from the private sector who shall be Chairman;(b) the Council Secretary or Town Clerk;(c) two representatives from the private sector appointed on a regional basis;(d) an attorney;(e) a representative of the Ministry of Lands and Housing;(f) a representative of the Ministry of Trade and Industry; and(g) such two Councillors as the Minister may determine.(4) The members shall elect from among their number, the Vice Chairman.(5) The provisions of this Act in respect of licensing committees relating to tenure of office, disqualification for appointment as a committee member, vacation of office of member of a committee, removal and suspension from office by Minister, filling of vacancies of committees, confidentiality, and disclosure of interest shall apply mutatis mutandis to the Regional Appeals Board.(6) A person aggrieved by a licensing committee's decision—(a) not to issue a licence;(b) not to transfer a licence;(c) to suspend a licence; or(d) to revoke a licence, may appeal in writing, to the Regional Appeals Board within 30 days of notification of the decision.(7) A person aggrieved by a decision of the Regional Appeals Board on any matter may appeal to the Minister in writing, within 30 days of notification of the decision of the Board.22. Conversant person to manage in absence of licensee(1) A licensee shall not permit another person to manage or conduct the licensed business unless such person is fully conversant with the business and shall where called upon by an authorised officer in accordance with section 23(2)(b), supply all such information about the business as may be required under this Act.(2) Without prejudice to the generality of subsection (1), a licensee shall not allow a person who—(a) is below the age of 18 years;(b) has, during the preceding two years from the time the application is made, been convicted of an offence under this Act or of an offence involving dishonesty; or(c) does not have a Botswana residence and work permit, to manage the licensed premises.(3) A licensee who contravenes a provision of subsection (1) or (2) shall be guilty of an offence and liable to a fine not exceeding P2 000 or to imprisonment for a term not exceeding six months, or to both.23. Authorised officers(1) The Minister shall, by notice published in the Gazette, appoint such number of persons as appear to him to be necessary, as authorised officers, which authorised officers shall perform the duties set out in subsection (2).(2) An authorised officer may enter at all times, trading business premises and may—(a) inspect the premises;(b) require a person on the premises to furnish any information including documents in his possession as to the activities conducted on the premises and the person by whom they are conducted; or(c) confiscate goods where the goods are being sold in contravention of the Act or conditions of a licence.(3) Each authorised officer shall be issued with an identity card, in such form as may be prescribed, and shall have such identity card in his possession when performing any function under this Act.(4) A person who obstructs an authorised officer in the discharge of his duties under this section shall be guilty of an offence and liable to a fine not exceeding P4,000 or to imprisonment for a term not exceeding one year, or to both.24. Environmental health officers may inspect premises(1) Environmental health officers within a council area of a licensed premises may inspect the premises during the hours when such premises are open to the public.(2) Where an environmental health officer finds the premises in a state that poses a danger to public health or where a danger to public health is likely to occur, he shall write a report to the licensing committee recommending revocation in accordance with section 20.(3) The council may commence action to rehabilitate premises under subsection (2) and the cost of such rehabilitation shall be recovered as a civil debt from the licensee.(4) A person who obstructs an inspection under subsection (1) shall be guilty of an offence and liable to a fine not exceeding P4 000 or imprisonment for a term not exceeding one year, or to both.25. Breach of peace(1) An authorised officer or member of the Botswana Police Service of the rank of Sergeant or above may order, in writing, licensed premises to be closed for such period as he considers appropriate, where serious breach of peace has occurred or is likely to occur.(2) A person who resists or obstructs the execution of an order given under this section shall be guilty of an offence and liable to a fine not exceeding P4 000 or to imprisonment for a term not exceeding one year, or to both