

# Trading licences: Information sheet

## Who must apply for a trading licence?

Trading licences are governed by the Business Act of 1991, No. 71, which states that the following businesses require licences;

### Item 1: Sale or supply of meals or perishable foodstuffs

1. The carrying on of the sale or supply to consumers of —
2. any foodstuff in the form of meals for consumption on or off the business premises; or
3. any perishable foodstuff.
4. For the purposes of subitem (1) "perishable foodstuff" means any foodstuff or category of foodstuffs declared by an Administrator by notice in the *Official Gazette* to be a perishable foodstuff in the province concerned for the purposes of this item.

### Item 2: Provision of certain types of health facilities or entertainment

The carrying on of business by —

- a. providing Turkish baths, saunas or other health baths;
- b. providing massage or infra-red treatment;
- c. making the service of an escort, whether male or female, available to any other person;
- d. keeping three or more mechanical, electronic or electrical contrivances, instruments, apparatus or devices which are designed or used for the purpose of the playing of any game or for the purpose of recreation or amusement, and the operation of which involves the payment of any valuable consideration, either by insertion of a coin, token coin or disc therein or in an appliance attached thereto or in any other manner;
- e. keeping three or more snooker or billiard tables;
- f. keeping or conducting night club or discothèque;
- g. keeping or conducting a cinema or theatre.
- h. conducting adult premises referred to in section 24 of the Films and Publications Act, 1996.

### Item 3: Hawking in meals or perishable foodstuffs

1. The carrying on of business, whether as principal, employee or agent, by selling any foodstuff in the form of meals or any perishable foodstuff;
  - a. which is conveyed from place to place, whether by vehicle or otherwise;
  - b. on a public road or at any other place accessible to the public; or
  - c. in, on or from a movable structure or stationary vehicle, unless the business is covered by a licence for a business referred to in item 1 of this Schedule.
- d. For the purposes of subitem (1) "perishable foodstuff" means any foodstuff or category of foodstuffs declared under item 1 (2) of this Schedule to be a perishable foodstuff.

## **Application form**

A L1 form must be completed and submitted to your local municipality's licensing department, a once off fee for a business licence or a hawker's licence respectively is payable. The normal processing time is approximately 21 working days, if there is no "Special consent" or "Departure" required from committees of council. A L2 form is the actual licence issued by the municipality.

## **Premises**

- The Licensing Department usually requires reports from the town planning, health and fire departments.
- The premises will have to be inspected by the town planning, health and fire departments for zoning and type of business activity, health and fire regulations.
- You may need to submit a plan of the proposed business premises if you intend building, or for any alterations required for existing business premises.
- Due to the many regulations involved in obtaining a trading licence, you should first contact your Local Municipality's Town Planning Department. They will look at the zoning and then at the proposed activity and will investigate whether the proposed activity may be permitted within the zoning. If the proposed activity is permitted within the zoning then this is referred to as a "Primary use right". If the zoning does not make provision for the intended use it would either be handled by the respective Council as a "Departure" or "Special consent " use.

## **Town Planning**

Ensures that the physical, social and economic characteristics of that area and, in so far as any neighbouring area has or is likely to have on the physical development of that area, the physical, social and economic characteristics of any such neighbouring area; the distribution, increase and movement and the urbanisation of the population in that area; the natural and other resources and the economic development potential of that area; the existing infrastructure, such as water, electricity, communication networks and transport systems, in that area; the general land utilisation pattern and sensitivity of the natural environment. If in certain cases the City Council has to consider a "Departure" or "Special consent", the process can take up to three (3) months and in some cases requires advertisements in both English and Afrikaans daily newspapers of the business's intention to conduct its particular business activities. Any objections are heard before the Board before any "Departure" or "Special consent" is granted. Any person who contravenes the "Land use Planning Ordinance No 15 of 1985", shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000 or to imprisonment for a period not exceeding (5) years or both such fine and such imprisonment and, to a fine not exceeding R120 for every day during which the contravention continues. This is governed by the "Land use Planning Ordinance No 15 of 1985". The above will be effected by the new Planning Bill of 1999, which states that anyone contravening the new Bill, shall be guilty of an offence and liable on conviction to a fine not exceeding R500 000 or to imprisonment for a period not exceeding (5) years or both such fine and such imprisonment and, to a fine not exceeding R10 000 for every day during which the contravention continues.

## **Health Department**

Ensures that hygienic and clean conditions are maintained; to prevent any nuisance, any offensive condition, any condition which may be harmful or dangerous, water pollution and primary health. They maintain the strict requirements of the Health Act, which applies especially if the business is involved in the preparation of food.

## **Fire Department**

Ensures that the premises are in no way a fire hazard, and comply with all the safety regulations.

- If none of the above three departments have any objections, the licence can be issued by council.
- Once the trading licence has been granted, premises may be inspected from time to time by an authorised officer from any of the departments mentioned. He may inspect premises, vehicles, goods or records of the business to ensure that they conform to the local regulations.

## **Renewals**

- The licence when granted remains valid until such time as ownership changes or the activity specified on the licence alters.
- A fresh application for a business licence is required under the following circumstances:
  - a. New owner or legal entity i.e. CC or Company.
  - b. Change in premises.
  - c. Change in activities on the premises, where a licence for such an activity is required.

## **Source:**

Junior Achievement SA, Centre for Opportunity Development, BRAIN

\*Please note that the above groups do not accept any responsibility for misinterpreted or outdated information. When in doubt you should consult either an attorney or an accountant.