

8 of 1980, 22 of 1984.

AN ACT PROVIDING FOR THE HOLDING OF A BUSINESS LICENCE.

[4th September, 1980.]

[Commencement 15th September, 1980.]

- Short title.** 1. This Act may be cited as the Business License Act
- Interpretation.** 2. In this Act, unless the context otherwise requires -“
- Bahamian”** means -
- (a) a citizen of The Bahamas
 - (b) a company registered under the Companies Act in which 100% of the shares are beneficially owned by Bahamians;
 - (c) a partnership, the partners of which are citizens of The Bahamas;
- “beneficially owned”** shall be construed as in section 176 of the Companies Act;
- “business”** includes a profession, calling, vocation, occupation, trade, manufacture or undertaking of any kind whatever, an adventure or concern in the nature of trade but does not include an office or employment;
- “cost”** means -
- (a) in relation to goods imported into The Bahamas the aggregate of the value of the goods as determined under the Tariff Act, and the amount of any customs duty paid pursuant to that Act in respect of those goods; or
 - (b) in relation to goods purchased for resale, other than those mentioned at paragraph (a), the purchase price paid; or
 - (c) in relation to goods manufactured, produced or otherwise provided for sale, the expenditure, including any in respect of customs duty, incurred in respect of the cost of any raw materials used in the manufacture, production or other process, as the case may be; and
 - (d) any such expenditure or portion thereof as the Minister may prescribe in relation to any business or class of business as being proper to be set off against turnover in determining the gross profit by reason of the custom or practice obtaining in the respective business:
- Provided that no amount in respect of the same expenditure shall be taken into consideration under more than one of the foregoing paragraphs;
- “gross profit”** means in relation to a business the turnover of that business less the cost incurred producing that turnover;
- “License”** means the annual business License referred to in sections 3(1) and 6(1);
- “practices or carries on”** in relation to a particular profession, calling, vocation or occupation includes the rendering of services or the holding out of oneself as qualified or willing to render services, peculiar to that profession, calling, vocation or occupation;
- “Secretary”** means any person holding the public office of Secretary for Revenue and includes any officer of the Ministry of Finance or any commissioner authorized in writing by the Secretary to perform any of the functions

conferred on the Secretary by this Act;

“**turnover**” means the total gross receipts in money or money’s worth accruing to a person for his own use and benefit from his business activities within The Bahamas during the preceding year or in such other accounting period as the Secretary may allow, including all cash and credit sales and commissions without any deductions whatsoever.

Requirement for annual business license.

3. - (1) Subject to sections 5 and 6, every person who in any year carries on any business with a view to obtaining a turnover shall before the 1st October, 1980 and the 31st March of every succeeding year, make an application in the prescribed manner to the Minister for an annual business License in respect of the carrying on of that business.

(2) Upon receipt of an application in respect of a business carried on immediately prior to the coming into operation of this Act the Minister shall cause a License to be issued in respect thereof.

(3) Subject to section 6, where an application is made in respect of a business, other than as mentioned in subsection (2), by an applicant who is a Bahamian the Minister shall cause a License to be issued to the applicant:

Provided that the Minister is satisfied that -

- (a) the business is beneficially owned by a Bahamian (proof whereof shall lie upon the applicant); and
- (b) the requirement (if any) of any other law regulating the carrying on of that business has been complied with.

(4) Subject to section 6, where the application is made in respect of a business, other than as mentioned in subsection (2), by an applicant who is not a Bahamian the Minister may in his discretion, the exercise of which shall not be called in question in any court, and including having regard to the economy and the public interest of The Bahamas, cause a License to be issued in respect of that business subject to compliance with such requirement (if any) as mentioned in paragraph (b) of the proviso to subsection (3).

4. - (1) Subject to any regulations made under this Act, a person shall, unless he is exempt therefrom by virtue of an order made by the Minister, determine and pay for a License in relation to a business described hereunder the appropriate fee computed on the following scale -

Description of Business	Fee
(a) Very small business with-	
(i) a low profit	\$ 1.00
(ii) a medium profit	\$ 2.00
(iii) a high profit	\$ 4.00
(iv) a very high profit	\$ 8.00
(b) small business with -	
(i) a low profit	\$ 125.00
(ii) a medium profit	\$ 250.00
(iii) a high profit	\$ 375.00
(iv) a very high profit	\$ 400.00
(c) medium business with –	

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| (i) a low profit | ¼ of 1 % of its turnover or \$2,000 (whichever is the lesser) |
| (ii) a medium profit | ½ of 1% of its turnover or \$4,000 (whichever is the lesser) |
| (iii) a high profit | ¾ of 1% of its turnover or \$6,000 (Whichever is the lesser) |
| (iv) a very high profit | 1% of its turnover or \$8,000 (Whichever is the lesser) |
| (d) a large business with - | |
| (i) a low profit | ¼ of 1% of its turnover or \$10,000 (Whichever is the lesser) |
| (ii) a medium profit | ½ of 1% of its turnover or \$20,000 (Whichever is the lesser) |
| (iii) a high profit | ¾ of 1% of its turnover or \$30,000 (Whichever is the lesser) |
| (iv) a very high profit | 1% of its turnover or \$40,000 (Whichever is the lesser) |
| (e) a very large business with - | |
| (i) a low profit | ¼ of 1% of its turnover or \$45,000 (Whichever is the lesser) |
| (ii) a medium profit | ½ of 1% of its turnover or \$90,000 (Whichever is the lesser) |
| (iii) a high profit | ¾ of 1% of its turnover or \$135,000 (Whichever is the lesser) |
| (iv) a very high profit | \$ 180,000.00 |
- (2) For the purposes of this section a business shall be deemed to be -
- (a) very small, if its turnover does not exceed fifty thousand dollars per annum;
 - (b) small, if its turnover exceeds fifty thousand dollars but does not exceed two hundred and fifty thousand dollars per annum;

- (c) medium, if its turnover exceeds two hundred and fifty thousand dollars but does not exceed one million dollars per annum;
 - (d) large, if its turnover exceeds one million dollars and is less than five million dollars per annum;
 - (e) very large, if its turnover is five million dollars or more per annum;
- (3) For the purposes of this section the profit of a business shall be deemed to be -
- (a) low, if its gross profit per annum is not more than 25% of its turnover;
 - (b) medium, if its gross profit per annum is more than 25% of its turnover but not more than 50% of its turnover;
 - (c) high, if its gross profit per annum is more than 50% of its turnover but not more than 75% of its turnover;
 - (d) very high, if its gross profit per annum is more than 75% of its turnover,

for the same year.

(4) Where a person carries on more than one business, that is any combination of a very small, small, medium, large or very large business, the profit of each business shall be computed on the average gross profit of all his businesses and the profit of each business shall be so deemed in accordance with subsection (3).

(5) The Minister may by order, which shall be subject to affirmative resolution of both Houses of Parliament, amend the foregoing provisions of this section and in that order provide for the modification or adaptation of any provisions of this Act to such extent as he considers necessary to give effect to such amendment.

**Separate and distinct kinds of business on same premises.
Ch. 336., Ch. 262.**

5. - (1) Where the business to be Licensed consists of separate and distinct undertakings, whether on the same premises or not, a License shall, subject to section 4(4) and any regulations, be obtained for each undertaking.

(2) For the purposes of this Act the carrying on of a business in the nature of a hotel Licensed under the Liquor License Act and the Hotel Act, shall be deemed to include the provision of meals and recreational facilities to persons patronizing the hotel.

New business.

6. - (1) Where after the coming into operation of this Act a person intends in any year to commence the carrying on of a new business, he shall, prior to such commencement, make application in the prescribed manner to the Minister for an annual business License in respect thereof and, subject to the foregoing, if he is -

- (a) a Bahamian, he may prior to the determination of his application, carry on such business;
- (b) not a Bahamian, he shall not carry on a business without a License being issued to him:

Provided that where the carrying on of that business is subject to a License being granted pursuant to an application made under any other law, the application to the Minister under the foregoing provisions of this section shall be made not later than seven days before, and be accompanied by a copy of, the application to be made under that other law.

(2) The issue of a License to a person to whom subsection (1) applies and who is not a Bahamian shall be at the discretion of the Minister, the exercise of which shall not be called in question in any court, and any License issued under this Act shall be on such terms and conditions (if any) as the Minister sees fit to impose.

- (3) Notwithstanding anything to the contrary in any such law as is mentioned in subsection (1) -

- (a) the application under that law shall not be entertained by the appropriate authority unless it is satisfied that the applicant has complied with that subsection; and
 - (b) subject to sections 7 and 12(2) it shall be deemed one of the conditions of any license issued under that other law in respect of a business that such License is of no effect if the licensee is not the holder of a License issued under this Act.
- (4) Notwithstanding anything to the contrary in this Act, the fee payable for a License issued pursuant to an application made under subsection (1) in respect of a new business shall be ten dollars.
- (5) Without prejudice to subsection (2), the Minister may refuse to issue a License in respect of a new business if the new business is a continuation of a business previously carried on.
- (6) For the purposes of subsection (5), a new business shall be deemed to be a continuation of a business previously carried on if the Minister is of the opinion that the new business is under the direction or control of substantially the same persons as the business previously carried on.

Exemption.

7. - (1) This Act does not apply-

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- (a) to persons or companies carrying on business under the Spirits and Beer Manufacture Act if those persons or companies satisfy the Secretary that they have paid export tax of not less than one million dollars in the previous year;
- (b) to ecclesiastical, charitable, cultural or educational institutions or organizations within The Bahamas designated by order of the Minister;
- (c) to a medical clinic or hospital carried on within The Bahamas designated by order of the Minister;
- (d) to clubs or commissaries of any foreign state operating under a special agreement with the Government;
- (e) to a body corporate in which the shares or equity is 60% or above owned by the Government;
- (f) to a business or operation that is fully owned by the Government;
- (g) to any person employed in the service of the Government or of a public body or any other person and who does not practice otherwise than in the service of the Government or of that body or that other person;
- (h) to any person who practices in the course of his being wholly employed in the service of another whose undertaking or business does not comprise the rendering of services of the nature of such practice;
- (i) to any person in the carrying out of his vocation as a minister of religion; or

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- (j) to any person in the carrying on of a business subject to a License under the Lotteries and Gaming Act;
 - (k) to a business, organization or institution designated in particular or by reference to a class or other description by order of the Minister.
- (2) For the purposes of this Act -
- (a) a fair shall not be deemed to be a business;
 - (b) charges for admission to witness or to participate in sporting or charitable events or for the provision of refreshments to patrons who witness those events shall not be deemed to be a business.

Application of Act to Banks, trust, insurance and non-resident companies., Ch. 287.

Ch. 317., 22 of 1984, s. 2. and Sch.

8. - (1) Notwithstanding any other provisions of this Act, any bank or trust company licensed under the Banks and Trust Companies Regulations Act, shall not be required to pay a fee for a License in accordance with section 4 if they satisfy the Secretary that they have paid the requisite fee under the said Act.

(2) Notwithstanding any other provisions of this Act, a person who is a registered insurer under the Insurance Act, shall in lieu of the fee payable under section 4 pay for a License within four weeks of the end of each quarter of a financial year (as defined in the said Act) a fee of two per cent, of the gross premiums collected by that registered insurer during that quarter in respect of his local policies or the sum of twenty-five dollars, whichever is the higher.

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(3) Notwithstanding any other provisions of this Act but subject to the foregoing provisions of this section, a company which is, designated as non-resident under the Exchange Control Regulations Act shall in lieu of any fee payable under section 4, pay a fee of one hundred dollars.

Furnishing of particulars and affording inspection to the Secretary.

9. - (1) The Secretary may by notice in writing require any person to whom this Act applies to furnish him within a specified time any particulars in writing he requires and being particulars relating to the administration or enforcement of this Act.

(2) Every person who carries on a business shall permit the Secretary to enter any premises occupied for the purpose of the business and in so far as is necessary for the purpose of sections 6(6) and 10(1), to inspect and take copies of books, records, accounts or other documents kept there in relation to the business.

Assessment by Secretary.

10. - (1) Where the applicant for a License has tendered a sum of money pursuant to section 4, the Secretary may within two years of the date of issue to him of the respective License proceed to make an assessment of the fee payable by that applicant for that License and thereafter, in keeping with that assessment, demand payment by, or effect a refund to, him of any sum, as the case may be.

(2) Where a person is aggrieved as to the assessment of the fee he is required to pay for a License, he may within twenty-one days after the receipt of notice of the assessment apply to the Secretary by notice of objection in writing to review and revise the assessment.

(3) The application shall state precisely the grounds of objection to the assessment and the Secretary shall as soon as practicable consider the objection and may allow or disallow it, for which purpose he shall afford the applicant an opportunity to attend before him and to produce such evidence, including any books or documents the applicant may have in his possession or under his control, as may be relevant to the objection.

(4) The Secretary shall dismiss any application made under subsection (2) unless the whole of the fee assessed by the Secretary shall have been forwarded with the application as-a deposit or for good cause the Secretary determines that the applicant shall be relieved of the requirements of this subsection in whole or in part and is satisfied that the applicant has complied with any such determination which gives partial relief only.

(5) The Secretary shall retain any sum deposited with him under subsection (4) or any part thereof as he considers sufficient to abide the final outcome of any appeal made under section 11.

Appeal against Secretary's assessment.

11. - (1) If an applicant is aggrieved by the decision of the Secretary made under section 10, he may by motion appeal to the Supreme Court against that decision within twenty-one days after the receipt of the decision by serving a written notice signed by his counsel and attorney or by himself on the Secretary of his intention to appeal and of the grounds of appeal.

(2) The Secretary shall upon receiving the notice of appeals transmit to the Registrar of the Supreme Court a copy of his decision and all papers relating to the appeal.

(3) Notice of the date of the hearing of the appeal fixed by the Registrar shall be given to the parties and at the hearing the appellant shall not, unless by leave of the court, go into any matters not raised by the grounds of appeal set out in his notice.

(4) Upon the hearing of the appeal the court may make such order, including an order for costs, as it thinks just

and by such order exercise any power which the Secretary might have exercised and such order shall have the same effect and may be enforced in the same manner as if it had been made by the Secretary.

(5) For the purposes of section 10 and of this section the onus of proving that an assessment is excessive shall be upon the person assessed.

Record and validity of licenses

12. - (1) A record of all Licenses issued in any year shall be kept by the Secretary and may be published by notice as and when directed by the Minister.

(2) A License shall be valid in respect of the year in which it is granted and shall expire on the 31st day of December of that year unless sooner revoked by the Minister by reason of the breach of any condition to which the License is subject:

Provided that a business in respect of which a License has expired as aforesaid shall not be considered for the purposes of this Act by reason only of such expiration as unlicensed during the succeeding period ending with the 31st March next following that expiration.

Issue of licenses and replacement of copies.

13. - (1) Where a business is carried on at more than one premises any License to be issued in respect of that business shall be issued in the prescribed form together with such additional number of copies thereof as there are number of premises in excess of one.

(2) On proof to the satisfaction of the Secretary that a License has been lost, mutilated or destroyed, the Secretary may authorize the issue of a replacement copy thereof on payment of the prescribed fee.

Display and inspection of license.

14. - (1) The holder of a License shall -

- (a) display the License in a conspicuous place on any premises occupied by him for the carrying on of the business;
- (b) produce the License for inspection when reasonably requested to do so by the secretary or any peace officer.

(2) For the purposes of subsection (1) License includes any copy issued pursuant to section 13.

(3) Any person who fails to comply with subsection (1) is guilty of an offence and is liable on summary conviction thereof to a fine of one thousand dollars and in addition to the fine, a sum of five hundred dollars for each day the offence continues subsequent to the date to which the conviction relates.

Offences.

15. Every person who -

- (a) subject to sections 7 and 12(2), in any year without lawful excuse carries on a business in respect of which there is no License in force;
- (b) contravenes the provisions of section 3(1) or 6(1);
- (c) fails without reasonable excuse to furnish any particulars or information within the time specified by the Secretary or by regulations made under this Act.
- (d) in a return, information or particulars furnished under this Act, makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular;
- (e) in relation to any business, knowingly keeps or preserves, or causes to be kept or preserved any book, record or account which is false in any material particular, or makes or causes to be made in any book, record, account or return any entry which is false in any material particular;

- (f) obstructs the Secretary in the exercise of his functions under this section; or
- (g) is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion by him or any other person of any fee payable under this Act,

is guilty of an offence and is liable on summary conviction thereof -

- (i) to a fine of ten thousand dollars or to imprisonment for two years;
- (ii) in addition to any fine, a sum of one thousand dollars for each day the offence continues subsequent to the date to which the conviction relates; and
- (iii) double the amount of any sum shown to the court that would have been payable as a License fee but for the commission of the offence; and
- (iv) in respect of a conviction for an offence under paragraph (a), to have his goods, machinery and equipment used in connection with, or that were the subject of, the business to which the conviction relates, forfeited and sold or otherwise disposed of as the Court sees fit.

Payment and recovery of fees.

16. - (1) Any fees payable under this Act shall -

- (a) if the business in question is situate in New Providence, be paid to, and collected by, the Treasurer at the Treasury;
- (b) in any other case be paid and collected either to and by the Treasurer as aforesaid or, at the election of the person carrying on the business, to and by the commissioner for the district concerned to be by him remitted to the Treasurer;

(2) All fees payable under this Act may be sued for, recovered and payment enforced, without limit as to amount, summarily.

Proof of issue of license.

17. - (1) In any proceeding in a court, the fact that -

- (a) a License has been issued to a person may be established by the production of an extract, certified by the Secretary from the books of the Ministry, of the entry recording the issue of the License and of proof that that person and the person named in the entry are one and the same;
- (b) there was not in force at a specified time a License in respect of the carrying on of a business whether by a particular person or not may be established by the production of a statement to that effect signed by the Secretary.

Fees paid for business license in Family Islands

18. - (1) A sum equal to half of the total amount of the fees paid in any year for Licenses in relation to business situate in the Family Islands, shall be placed in a separate account to be held reserved by the Minister in accordance with the requirements of this section.

(2) All fees held reserved by the Minister pursuant to subsection (1) shall to the extent that such fees were paid for Licenses in relation to business situate in any Family Island, be expended upon public works in that island. Permitting use of license by another.

19. - (1) Any person who -

- (a) permits his License to be used by another;
- (b) makes use of, trades, or acts in any way with, under, or by color of a License granted to another, or of a License which has been revoked,

is guilty of an offence and on summary conviction thereof each of them shall pay for each offence the sum of ten thousand dollars or is liable to two years imprisonment and in addition each License shall be forfeited and become null and void except that anyone bona fide employed by the holder of a License may lawfully make use of, trade and act with and under that License for the exclusive benefit of the holder.

(2) Where in any proceedings under this section it is shown that a person who was not the holder of a License made use of a License of another it shall be presumed until the contrary is shown, that such was done with the knowledge and consent of the latter.

Regulations.

20. The Minister may make regulations for carrying out the purposes and provisions of this Act, and, in particular without prejudice to the generality of the foregoing may make regulations -

- (a) prescribing the manner and the form in which applications for a License may be made and the form in which Licenses may be issued;
- (b) prescribing, without prejudice to the powers of the Minister as conferred upon him by section 6 to impose terms and conditions, the terms and conditions under which a License may be held by a, or a particular class of, licensee.
- (c) prescribing anything which is required by this Act to be prescribed.

Derogation.

21. Subject to sections 4 and 6, nothing in this Act shall derogate from the provisions of any other law.

Expenses under Act.

22. All expenses incurred in carrying out the provisions of this Act shall be charged on and paid out of the Consolidated Fund.

Secrecy.

24. - (1) Subject to subsection (3), every person having official duty under this Act or being employed in the administration of this Act, shall preserve and aid in preserving secrecy with regard to any matter relating to the affairs of any person coming to his knowledge in the course of the performance of his duties as such under this Act.

(2) No person to whom subsection (1) applies shall be required to produce in any court any book or document in his custody by reason of his duties under this Act or to divulge or communicate to any court any matter mentioned in subsection (1) except in proceedings relating to the carrying out, or enforcement of the provisions of this Act.

(3) Every person required under subsection (1) to deal with any matter mentioned therein as secret who at any time communicates or attempts to communicate information relating to such matter to any person otherwise than for the carrying out, or enforcement, of the provisions of this Act, shall be guilty of an offence and liable on summary conviction to a fine of five thousand dollars or to imprisonment for two years or to both such fine and imprisonment.