

GOVERNMENT OF ZAMBIA

ACT

No. 32 of 1993

Date of Assent: 26th August, 1993

An Act to amend the Trades Licensing Act

[8th September, 1993

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Trades Licensing (Amendment) Act, 1993, and shall be read as one with the Trades Licensing Act, in this Act referred to as the principal Act.

Short title

Cap. 707

2. Section *one* of the principal Act is amended by the addition after paragraph (f) of subsection (2) of the following new paragraph:

Amendment
of section 1

(g) commercial travellers.

3. Section *two* of the principal Act is amended—

Amendment
of section 2

(a) by the deletion of the proviso to the definition of " commercial traveller ";

(b) by the insertion after the definition of " local authority " of the following definition: " manufacturing " means the transforming, on a commercial scale, of raw materials into finished or semi-finished products and includes the assembling of inputs into finished or semi-finished products, but does not include mining; and " manufacture " shall be construed accordingly.

4. The heading to Part II of the principal Act is amended by the insertion of " AND MANUFACTURING " after " TRADING ".

Amendment
of Part II
heading

Repeal and
replacement
of section 4
Restriction
on manufac-
turing

5. The principal Act is amended by the repeal of section *four* and the substitution therefor of the following section:

4. (1) No person shall carry on business as a manufacturer—

(a) unless he is the holder of, or is authorised to do so under, a manufacturing licence; or

(b) otherwise than in accordance with the terms of such a licence.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence.

Amendment
of section 5

6. Section *five* of the principal Act is amended—

(a) by the deletion of subsection (1) and the substitution therefor of the following subsection:

(1) The following licences may be issued under this Act:

(a) a trading (wholesale) licence;

(b) a trading (retail) licence;

(c) a hawker's licence;

(d) a pedlar's licence;

(e) a pedlar's (restricted) licence;

(f) a stall licence;

(g) a restricted licence;

(h) an agent's licence;

(i) a manufacturing licence.

(b) by the deletion of subsection (5);

(c) by the deletion of subsection (11);

(d) by the renumbering of subsection (12) as (11);

(e) by the insertion immediately after subsection (11) of the following new subsections:

(12) A manufacturing licence shall authorise the person named therein to manufacture and sell any product or products specified in the licence.

(14) Notwithstanding the repeal of the investment Act, 1991—

(a) a manufacturing licence that was issued to a person under that Act shall be deemed to have been issued under this Act; and

Act No. 19
of 1991

(b) an application for a manufacturing licence pending under that Act shall be deemed to have been made under this Act to the appropriate Licensing Authority.

7. The principal Act is amended by the repeal of section *nine* and the substitution therefor of the following section:

Repeal and
replacement
of section 9

9. (1) The following shall be Licensing Authorities for the purposes of this Act:

Licensing
Authorities

(a) for the issue of any licence (other than a licence applied for by a local authority) for the manufacture or sale of goods—

(i) in a city, the city council thereof;

(ii) in a municipality, the municipal council thereof;

(iii) in a township, the township council or the management board thereof, as the case may be;

(iv) in a district, the district council thereof;

(v) in any other area, such authority as the Minister may, by statutory instrument, prescribe as the Licensing Authority for the area;

(b) for the issue of any licence to a local authority, the Minister.

(2) A Licensing Authority may authorise, in writing, any person to issue a licence on behalf of the Authority.

8. Section *twelve* of the principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following:

Amendment
of section 12

(1) Where a notice of intention to apply to a Licensing Authority for a licence is published under subsection (2) of section *eleven*, any person who wishes to object to the issue of such a licence shall, not later than twenty-one days from the last publication of the notice of intention as required by subsection (2) of section *eleven*, give notice of his objection in the prescribed form to such Licensing Authority and to the person named as the applicant in the notice of intention.

9. The principal Act is amended by the repeal of section *thirteen* and the substitution therefor of the following section:

Repeal and
replacement
of section 13

- Application for licence
13. (1) Subject to this section, an application for a licence shall be made in the prescribed form to the Licensing Authority for the area in which the applicant intends to carry on the activity to be licensed.
- (2) An application under subsection (1) shall be accompanied by the prescribed fee.
- Amendment of section 15
10. Section *fifteen* of the principal Act is amended—
- (a) in subsection (1) by the deletion of paragraph (a) and the substitution therefor of the following paragraph:
- (a) that the applicant is under the age of eighteen years;
- (b) by the deletion of subsection (2);
- (c) in subsection (3) by the deletion of " subject to the provisions of subsection (4), when " and the substitution therefor of " If ";
- (d) by the deletion of subsection (4);
- (e) by the deletion of subsection (5);
- (f) by the renumbering of subsection (3) as (2).
- Repeal and replacement of section 17
11. The principal Act is amended by the repeal of section *seventeen* and the substitution therefor of the following section:
17. (1) A Licensing Authority may not issue any of the licences under this Act to an applicant who is not a Zambian unless—
- (a) the applicant has obtained an investment certificate under the Investment Act; and
- (b) where the applicant is an individual, he has satisfied the requirements of the Immigration and Deportation Act.
- Act No. 19 of 1991
Cap. 122
- Restriction on issue of licences to non-citizens
- Insertion of new section 18A
12. The principal Act is amended by the insertion after section *eighteen* of the following new section:
- 18A. (1) Subject to the Income Tax Act, a Licensing Authority shall require a licence holder under this Act to provide the Authority with his physical address of the place where he conducts his business or trade.
- (2) The information obtained by the Licensing Authority under subsection (1) shall be forwarded to the Commissioner of Revenue at the time when the licence expires or is renewed.
- Information required for tax purposes
Cap. 668

13. The principal Act is amended by the repeal of section *nineteen* and the substitution therefor of the following section:
19. (1) An applicant for a licence who is aggrieved by a decision of the Licensing Authority under section *fifteen* rejecting his application may appeal to the Minister, subject to further appeal to the High Court.
- (2) An appeal under this section shall be lodged by the person aggrieved within thirty days from the date of receipt of the notice that the application has been rejected.
14. Section *twenty-one* of the principal Act is amended in subsection (1)—
- (a) by the deletion of " or a person " and the substitution therefor of " or a Trade Inspector authorised in writing by the Minister, or a council policeman or employee.";
- (b) by the deletion of paragraph (b);
- (c) by renumbering paragraphs (c) and (d) as (b) and (c) respectively.
15. The principal Act is amended by the repeal of section *twenty-four* and the substitution therefor of the following section:
24. (1) The Minister may in writing, revoke a licence issued under this Act if the licence holder—
- (a) obtained the licence by fraud or deliberate or negligent submission of false or misleading facts or statements; or
- (b) contravenes the terms and conditions of the licence.
- (2) The Minister shall, before revoking a licence, give written notice to the licence holder of his intention to revoke the licence and the grounds for the revocation, and shall require the licence holder to show cause within a period of twenty-one days why the licence should not be revoked.
- (3) If the licence holder under subsection (2) fails to show cause to the satisfaction of the Minister as to why his licence should not be revoked, the Minister shall revoke the licence.
- (4) Any licence holder who is aggrieved by the revocation of his licence may appeal to the High Court within thirty days from the date of receipt of the notice revoking the licence.

Repeal and replacement of section 19

Appeals

Amendment of section 21

Repeal and replacement of section 24

Power of Minister to revoke licence

Amendment
of section 25

16. Section *twenty-five* of the principal Act is amended—
(a) by the deletion of subsection (1) and the substitution therefor of the following subsection—

(1) Subject to subsection (3), if the holder of a licence is convicted by a court of an offence in respect of the sale of goods, whether the offence is against this Act or any other written law, the court may endorse the conviction on the licence.

(b) in subsection (3) by deleting ", or who is disqualified from holding a licence, by order of a court under subsection (1) " and the substitution therefor of " under subsection (1), or who is disqualified from holding a licence by order of a court under subsection (2) ";

(c) by the renumbering of subsections (2) and (3) as (4) and (5) respectively;

(d) by the insertion after subsection (1) of the following two new sections:

(2) Subject to subsection (3), if a licence holder whose licence has been endorsed under subsection (1) is convicted of another such offence within two years of the date of the endorsement, the court may, in addition to any other penalty, order that—

(a) the licence shall be revoked; and

(b) the licence holder shall be disqualified from holding the licence that is endorsed for a specified period.

(3) Subsections (1) and (2) shall not apply if the licence holder proves that—

(a) the offence was not committed knowingly or wilfully; or

(b) in the case of an act or omission by an employee of the licence holder, the licence holder had taken reasonable steps to prevent the commission of the offence.

Repeal of
section 26

17. The principal Act is amended by the repeal of section *twenty-six*.

Amendment
of section 27

18. Section *twenty-seven* of the principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following:

(1) The Minister may, by statutory instrument, prohibit peddling or hawking of any class of goods in any area specified in the statutory instrument, if—

- (a) he is requested to do so by a Local Authority; and
- (b) he is satisfied that it is in the public interest to do so.

19. Section *twenty-eight* of the principal Act is amended—

Amendment
of section 28

(a) by the deletion of subsection (2) and the substitution therefor of the following subsection:

(2) Without prejudice to the generality of subsection (1), the regulations under subsection (1) may provide for—

- (a) the keeping of books, documents, accounts and records in respect of the manufacturing and sale of goods by licence holders, including the entries to be made therein in respect of dealings in goods;
- (b) the manner in which applications for licences may be made and the forms to be used for such applications;
- (c) the form of licences; and
- (d) the form of the register of licences required to be kept by a Licensing Authority under section *ten*.

(b) by renumbering the last two subsections as (3) and (4).

20. Section *twenty-nine* of the principal Act is amended—

Amendment
of section 29

(a) by the deletion in subsection (1) of "two hundred kwacha" and "ten kwacha" and the substitution therefor of "fifty thousand kwacha" and "ten thousand kwacha" respectively;

(b) by the deletion of subsection (4) and the substitution therefor of the following subsection:

(4) Where any offence against this Act is committed by a body corporate, any person, who at the time of the commission of the offence, was the chief executive, or acting or purporting to act in that capacity, shall be guilty of such offence unless he proves—

- (a) that the offence was committed without his knowledge or consent; and
- (b) that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in such capacity.
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