

MEMORANDUM

FROM: PS - MINISTRY OF TRADE AND INDUSTRY, COOPERATIVES AND
MARKETING (a.i)

TO: ALL SENIOR COMMERCIAL OFFICERS
ALL COMMERCIAL OFFICERS

DATE: 11 APRIL 2012

NAME: HLOMPHO MPETA

SIGNED:



V. L. KETSO
19/3/12

**RE: IMPLEMENTATION OF THE TRADING ENTERPRISES
REGULATIONS 1999 AS AMENDED**

Further to previous communication hereof, you are kindly reminded that the Minister for **Trade and Industry, Cooperatives and Marketing** the Honourable V.L Ketso, has amended the Trading Enterprises Regulations of 1999. The Amendments were published in two government gazettes last year. (**Legal Notice No. 20 and Legal Notice No.158 of February and December, 2011 respectively.**)

The amended Regulations streamline the licensing procedure; and get rid of cumbersome processes. The ultimate goal is to make Lesotho an investor-friendly destination of choice for investment; that is not only conducive but competitive for both local and international investors alike.

Below is the summary of the new legal status, containing Implementation Guidelines that you should use as a reference tool and Operating Procedure as you facilitate issuance of traders licenses in the districts you serve:

Pre-Selection Committee – Abolished

It has been established that this provision is redundant as it was never used.

1. Certificate of Inspection Requirement – Qualified.

- (a) The new provision states: "...where necessary, a Public Health inspection in respect of the business premises and the Public Health inspection report shall contain such information as the Director MAY specify or require".
- (b) This means that NOT all businesses require inspection report before licence is granted; that is, the LLBs will consider applications even though a health certificate is not attached and where applications are approved, relevant Officers will issue the licenses. Pre-inspection shall, however, remain a pre-requirement for certain businesses.
- (c) SCO and CO should ensure that this flexibility is not abused; i.e. they should try to verify information contained on the licence so that licenses are not issued in respect of business premises which do not exist or which even by consideration of lay-men or naked eyes, are dangerous.
- d. Pre inspection is required for businesses regarded as "**High Risk**" or such business operations which may be detrimental to **Human, Animal and Plant LIFE. (Biodiversity and environmental concerns.)**
- (e) Annex 1 lists business enterprises which require pre-inspection and which do not. Therefore, all Commercial Officers are advised to refer to Annex 1 whenever an application for a licence is submitted so that the applicant and the LLB can be advised accordingly.
- (f) Where pre-inspection is required, the inspection, may be done by any qualified person as the Director may designate, and the Director will determine what issues the report should cover.
- (g) After the licence has been issued, especially where there was no pre-inspection, the relevant Officer (SCO or CO) shall inform the public health authorities (in writing or per agreement between SCO or CO and the relevant authority in each district) of the location and nature of the business for their further action.

(h) If the health inspection report indicates that there are public health concerns, the Commercial Officer will inform the **Director OBFC** accordingly, with a recommendation for suspension and finally cancellation of the license.

(i) To ensure that business comply and meet expectations of public health and environmental authorities, these authorities are being consulted with a view to develop guidelines which applicants will follow; this will minimize the number of licenses which will be referred for suspension or cancellation on public health or environmental concerns.

2. **Application Fee and Late Application Fee – deleted.**

No longer payable.

3. **Licence Fees - Increased**

New license fees as per annex 2.

4. **Transfer Fee**

Transfer fee has been increased to M100 (one hundred Maloti).

5. **Revised Trading Hours**

(a) The following businesses may operate on all Weekdays, All Public Holidays, including **Workers' Day** and they may operate 24-hours a day; subject to compliance with **Labor Law** requirements. These are:

- Pharmacy
- Petrol dealer
- Funeral undertaker
- Motor garage
- Street photographer
- Cinema theatre
- Hair & Beauty salon.

(b) **All other businesses:**

- i. may operate 24 hours all weekdays including Saturday and Sunday; but on public holidays they shall not operate after 13hrs00 (they may operate in the morning until 13hrs).

ii. on Good Friday, Easter Monday, Christmas day and Independence Day, business may not operate between 8hrs and 14hrs00, (they may operate after 14hrs00).

iii shall not operate on workers day

(c) Trading hours should be clearly displayed and made known to the public; each operator should indicate or display their trading hours at the entrance

6. Certain businesses may be operated from residential premises, (home); i.e. they DO NOT require business premises. These are:

- Broker,
- Consultant,
- Advertising agent,
- Florist,
- Hawker,
- Auctioneer,
- Agent of a foreign firm,
- Builder and contractor,
- tentage dealer and
- street photographer.

N.B The Director of Trade may, on application, designate a certain business activity as one that does not require business premises. Commercial Officers may submit such applications on behalf of a trader in their district or advise such traders to apply.

7. **Revised / Increased Penalties:** Non compliance penalties have been increased to curb the non-compliance culture amongst the trading community. It is hoped that the new penalties will deter would be offenders of the Law. SCO and CO are advised to furnish District Prosecutors and Magistrates with a copy of the new Regulations for ease of reference.

8. **Business Floor Space:** The Director of Trade has the power to prescribe floor space for all items. Therefore, all Officers are advised to advice LLBs where such minimum floor space has been prescribed.

9. **Schedule 1 Part 1 Item 6 – Specifications for Wholesale licence holders**

- (a) A Wholesale licence holder should have sufficient parking space to ensure that there is no obstruction to both vehicular and pedestrian traffic in the vicinity. What is sufficient parking space shall be determined by the each LLB, having considered special circumstances of the location and district concerned.
- (b) Minimum floor space requirement for a wholesale is one thousand (1,000.) Square Meters.
- (c) No location restrictions are placed for a wholesale license; so it can be issued for businesses located in urban and rural areas

10. **Schedule 1 Part 1: Item 43 viz Security Agent** is deleted and now granted by **Ministry of Home Affairs**. Therefore, LLBs should no longer consider nor grant license for Security Agent. Any request/application for a security or surveillance related business operation **SHOULD** be referred to the **Ministry of Home Affairs**; all Commercial Officers are advised to note this policy change and to act accordingly.

For any other information or clarifications please consult **Director OBFC**.

By a copy of this communication, Sub-Accountants in particular are requested to note the new licence fees; the following Offices and Officers are informed and notified of the changes in the Trading Enterprises Regulations 1999 and therefore requested to cooperate and provide assistance as Senior Commercial Officers or Commercial Officers may request:

1. All District Administrators
2. All Sub-Accountants
3. All Public Health Officers
4. Maseru City Council.

Encl. Annex 1 – List of businesses, detailing whether or not pre-inspection is required.

Annex 2 – schedule of licence fees.

ANNEX 1

BUSINESSES THAT REQUIRE PRE-INSPECTION	BUSINESSES THAT DO NOT REQUIRE PRE-INSPECTION
<ol style="list-style-type: none"> 1. Mini Market 2. Super Market 3. Butchery 4. Dairy- Shop 5. Hair Salon 6. Petrol Dealer 7. Domestic Fuel 8. Funeral Undertaker 9. Scrap-yard Dealer 10. Pharmacy 11. Wholesaler <p style="text-align: center; font-size: 2em; margin-top: 20px;">19740</p>	<ol style="list-style-type: none"> 1. Agent of Foreign Firm 2. Broker 3. Consultant 4. Café 5. General Café 6. General Dealer 7. Snack Bar 8. Barber Shop 9. Cinema Theatre 10. Laundry 11. Dry Cleaner 12. Builder and Contractor 13. Motor Dealer 14. Motor Garage 15. Dealer in Furniture and Household Articles 16. Footwear and Textiles 17. Sports Shop 18. Music Shop 19. Curio Shop 20. Florist 21. Workshop 22. Hawker 23. Auctioneer 24. Street Photographer 25. Clearing Agent 26. Tentage Dealer 27. Gift Shop 28. Advertising Agent 29. Hard-ware Store

Note* Specialized dealer – Will require Pre-Inspection if it has an element of public health e.g. Food handling, use of Pharmaceuticals and drugs, chemical, gas etc.