

HAWKING AND STREET-VENDING (MODEL) BYE-LAWS

(section 38)

(24th August, 2001)

ARRANGEMENT OF BYE-LAWS

BYE-LAW

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Schedule

S.I. 38, 2001.

1. Citation

These Bye-laws may be cited as the Hawking and Street-Vending (Model) Bye-laws.

2. Interpretation

In these Bye-laws, unless the context otherwise requires-

"**authorised official**" means the Council Secretary or any employee of the Council duly authorised as such, in writing, by the Council;

"**certificate**" means a hawker's certificate of registration or a street-vendor's certificate of registration, issued under bye-law 4;

"**council**" means the District Council which has adopted these Bye-laws;

"**council area**" means the area under the jurisdiction of the council;

"**hawker**" means a person, being otherwise unemployed, who carries on the business of selling his goods from place to place within Botswana, which business has an average monthly turnover of no more than P500 per month;

"**Police Force**" means the Botswana Police Force or the Local Police Force;

"**register**" means any register which a council is required to keep under bye-law 7;

"**Registrar**" means the Council Secretary or any employee of the Council duly authorised as such, in writing, by the Council; and

"**street-vendor**" means a person, being otherwise unemployed, who carries on the business of selling goods from a pitch at which he stations himself, either in a convenient public place or upon land which he has no right to control, which business has an average monthly turnover of no more than P500 per month.

3. Prohibition of hawking or street-vending without certificate

(1) No person shall carry on the business of a hawker or street-vendor within the council area unless such person-

- (a) is a citizen of Botswana;
- (b) has attained the age of 16 years; and
- (c) is the holder of a valid certificate issued in terms of these Bye-laws.

(2) Notwithstanding the provisions of sub-bye-law (1), any person who is not required to obtain a licence to carry on any business in terms of section 32(3) of the Trade Act, may carry on the business of a hawker or street-vendor and shall not be required to obtain a certificate.

(3) Any person who contravenes the provisions of sub-bye-law (1), as read with sub-bye-law (2), shall be guilty of an offence under these Bye-laws.

4. Application for certificate

(1) Any person wishing to carry on the business of a hawker or street-vendor shall make an application as set out in Form A of the Schedule, to the Registrar, supplying such information as the Registrar may require and, in particular, specifying the-

- (a) class of goods to be traded; and
- (b) area in which he wishes to trade.

(2) The application shall be accompanied by-

- (a) two photographs, approximately five by four centimetres in size, clearly depicting the face and shoulders of the applicant; and
- (b) a copy of the applicant's identity card (in these Bye-laws referred to as an "*Oman*") issued in accordance with the provisions of the National Registration Act.

(3) The Registrar may refuse to issue a certificate to any person-

- (a) if he is satisfied that the issue of such certificate would be contrary to the public interest;
- (b) in respect of a particular class of goods, if he is satisfied that the carrying on of business in respect of that class of goods would be contrary to the public interest; or
- (c) in respect of a particular area or areas, if he is satisfied that the carrying on of business in such area or areas would be contrary to the public interest.

(4) The Registrar may, if he is satisfied that the requirements of these Bye-laws have been met, issue a hawker's or street-vendor's certificate as set out in Forms B and C of the Schedule respectively, subject to such conditions as he considers necessary or expedient having regard to the provisions of these Bye-laws.

5. Period of certificate

A certificate issued under bye-law 4(4) shall, subject to the provisions of these Bye-laws, be valid for a period of two years and, unless renewed under bye-law 6, shall expire immediately after a period of two years from the date of issue thereof has elapsed.

6. Renewal of certificate

(1) A certificate may, upon its expiry, be renewed by application made to the Registrar as set out in Form D, for a period of two years and thereafter for further periods of two years.

(2) An application for renewal in terms of sub-bye-law (1), shall be made-

- (a) no later than one month before the expiry of that certificate; or
- (b) no later than one month before the expiry of any of the subsequent periods for which the certificate has been renewed in terms of sub-bye-law (1).

(3) Subject to the provisions of sub-bye-law (5), the Registrar shall, on application made in terms of sub-bye-laws (1) and (2), endorse such renewal on the certificate and may attach such conditions to the renewal thereof as he may determine.

(4) Any certificate which is not renewed pursuant to an application made in accordance with sub-bye-laws (1) and (2) shall expire and may be renewed only by applying for a new certificate.

(5) The Registrar may refuse to renew a certificate if he is satisfied that-

- (a) the conditions of the certificate have not been complied with;

- (b) the conditions of these Bye-laws have not been complied with; or
- (c) it is in the public interest not to renew such licence.

7. Register of hawkers and street-vendors

(1) The Registrar shall keep a register of all registered hawkers and another of all registered street-vendors.

(2) The Registrar shall cause to be entered in such registers the following particulars in respect of each registered hawker or street-vendor-

- (a) his full names;
- (b) his registration certificate number;
- (c) the date of registration;
- (d) the types of goods allowed to be sold (as contained in the certificate);
- (e) the area in which such goods may be sold (as contained in the certificate); and
- (f) any other particulars which the Registrar may consider necessary.

8. Issue of duplicate certificate

(1) The Registrar, on being satisfied that a certificate issued in terms of these Bye-laws has been lost or destroyed, shall issue a duplicate certificate to that person.

(2) Where a certificate which has been lost and replaced is recovered, the duplicate certificate shall be returned forthwith to the Registrar.

9. Certificate not transferable

(1) A certificate issued under these Bye-laws shall not be hired, ceded, transferred or in any way whatsoever made over to any other person.

(2) Any person who contravenes the provision of sub-bye-law (1) shall be guilty of an offence under these Bye-laws.

10. Modification, suspension or cancellation of certificate

(1) The Registrar may modify, suspend or cancel a certificate if the conditions of the certificate have not been complied with or if the continuing use of the certificate constitutes a danger to public health.

(2) The Registrar may, at any time, withdraw or cancel a certificate issued under these Bye-laws if-

- (a) the holder thereof purports to hire, cede, transfer or in any way whatsoever make over the certificate to any other person;
- (b) the holder thereof is subsequently convicted of an offence under these Bye-laws; or
- (c) in his opinion, it is in the interest of the public to do so:

Provided that the Registrar shall, where practicable, allow the certificate holder

such time as he may consider necessary to enable the holder of the certificate to dispose of his existing stock.

11. Duties of hawkers and street-vendors

(1) Every hawker or street-vendor shall-

- (a) at all times keep in a clean and sanitary condition all receptacles, instruments and other articles used in the conduct of his trade;
- (b) pick and remove any litter or refuse which, in or through the conduct of his trade, has been deposited, dropped or has fallen on any public place or private property;
- (c) at all times keep his or her person clean while engaged in the conduct of his trade;
- (d) provide a separate storage compartment for the goods to be traded; and
- (e) if directly or indirectly obstructing traffic in any public place or obstructing the use of any public place, or causing a nuisance or danger to persons in the vicinity by means of himself, his vehicles or his goods, at the request of any member of the Police Force or authorised officer, remove himself, his vehicles or his goods, as the case may be, to such other place, as may reasonably be required, in order to discontinue such obstruction or danger or to abate such nuisance.

(2) No hawker or street-vendor shall-

- (a) agree, undertake or purport to hire, cede, transfer or in any way whatsoever make over his certificate to any other person;
- (b) trade in goods other than those specified in his certificate; or
- (c) trade in areas other than those allowed by his certificate.

(3) Any person who contravenes the provisions of sub-byelaws (1) or (2) shall be guilty of an offence under these Byelaws.

12. Prohibited forms of hawking

(1) No hawker shall-

- (a) trade on any private property without the consent of the owner, lessee, manager or occupier of the said property;
- (b) erect or expose goods for sale in any tent, booth, stall, stand or similar structure; or
- (c) hawk except between the hours of 7 a.m. and 7 p.m.

(2) Any person who contravenes the provisions of sub-byelaw (1) shall be guilty of an offence under these Byelaws.

13. Prohibited forms of street-vending

(1) No street-vendor shall-

- (a) in any area erect or expose goods for sale in any tent, booth, stall, stand or similar structure, unless approved by the Council to use, in such area, such tent, booth,

stall, stand or similar structure and the Registrar has endorsed such permission on the certificate;

- (b) refuse, at the request of a member of the Police Force or an authorised official, to move his goods, receptacles and any other objects associated with his trade, so as to permit the Council's sanitary staff to clear any area in which he is conducting his business;
- (c) when departing from the pitch at which he has been carrying on trade, leave behind goods, receptacles or other objects associated with his trade or leave such pitch in an unclean state;
- (d) carry on business except in between the hours of 6 a.m. and 10 p.m.

(2) Any person who contravenes the provisions of sub-bye-law (1) shall be guilty of an offence under these Bye-laws.

14. Appeals

Any person aggrieved by the decision of the Registrar, made under these Bye-laws, may appeal to the Minister.

15. Certificate to be produced for inspection

(1) Every holder of a certificate issued under these Bye-laws shall, on demand by any authorised official or any member of the Police Force, immediately thereon produce it for inspection or otherwise shall, within 48 hours of such demand, produce it for inspection at the office of such authorised official or at the station of such member of the Police Force, as the case may be.

(2) Any person who contravenes the provisions of sub-bye-law (1) shall be guilty of an offence under these Bye-laws.

16. Penalties for offences

(1) Any person who is guilty of an offence under these Bye-laws shall be liable, on conviction for a first offence, to a fine not exceeding P100 or to imprisonment for a term not exceeding two months, or to both, and for a second and subsequent conviction, to a fine not exceeding P200 or to imprisonment for a term not exceeding six months, or to both.

(2) Any person who is convicted of any offence under these Bye-laws may, in addition to any penalty to which he may be liable-

- (a) to have his certificate cancelled with effect from such date as the court considers necessary taking into account the time needed to enable him to dispose of his existing stock; or
- (b) to have his goods impounded or confiscated.

SCHEDULE

Form A

APPLICATION FOR HAWKER'S OR STREET VENDOR'S CERTIFICATE

(Bye-law 4)

(This form is to be completed in block letters. Attach two passport size photographs, approximately 5 cm x 4 cm and a copy of applicant's *Omang*.)

Full names of applicant
(Surname first)

Place of residence
.....

Postal address

Identity No.

*(30) I wish to apply for a hawker's/street-vendor's certificate as follows:

(1) Areas to be covered-

.....
.....

(2) Trading in the following classes of goods-

.....
.....

Date

.....
Signature of applicant

FOR OFFICIAL USE ONLY

Date on which application was received

*(31) Date of approval/rejection of application

.....
Registrar

Form B
HAWKER'S CERTIFICATE

(Bye-law 4)

Photograph of holder

Registration number

Surname

Other names

Identity number

Place of birth

Sex

Postal address

Physical address

District

The holder of this certificate is entitled to hawk in the following areas/places-

.....
.....
.....

and to trade in the following classes of goods-

.....
.....
.....

subject to the following conditions-

.....
.....
.....

.....
Signature or thumb-print of holder

Date of issue

Office of issue

OFFICIAL STAMP

.....
Signature of Registrar

RENEWALS

Date:

Conditions:

.....

.....

Date:.....

.....
Signature of Registrar

Conditions:

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Date:.....

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Signature of Registrar

Date:.....

Conditions:

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Signature of Registrar

Form C
STREET-VENDOR'S CERTIFICATE

(Bye-law 4)

Photograph of
holder

Registration number

Surname

Other names

Identity number

Place of birth

Sex

Postal address

Physical address.....

District

The holder of this certificate is entitled to vend in the following areas/places-

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and to trade in the following classes of goods-

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.....

subject to the following conditions-

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.....
Signature or thumb-print of holder

Date of issue

Office of issue

OFFICIAL STAMP

Signature of Registrar

RENEWALS

Date:

Conditions:

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Date:

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Signature of Registrar

Conditions:

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Date:

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Signature of Registrar

Conditions:

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Date:

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Signature of Registrar

Conditions:

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Signature of Registrar

Form D
APPLICATION FOR RENEWAL OF A HAWKER'S OR STREET VENDOR'S
CERTIFICATE

(Bye-law 4)

(This form is to be completed in block letters.)

Full names of applicant
(Surname first)

Registration number

Place of residence

Postal address

Identity No.

*(32) I wish to apply for the renewal of my hawker's/street-vendor's certificate as follows:

(1) Areas to be covered-

.....
.....

(2) Trading in the following classes of goods-

.....
.....

Date:.....

.....
Signature of applicant

FOR OFFICIAL USE ONLY

Date on which application was received

*(33) Date of approval/rejection of application