



**Tuvalu**

# **LICENCES ACT**

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**CAP. 26.24**





Tuvalu

## LICENCES ACT

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Tuvalu

## LICENCES ACT

### AN ACT RELATING TO LICENCES<sup>1</sup>

Commencement [31st December 1917]

#### 1 Short title and application

This Act may be cited as the Licences Act and shall apply to all places where the Kaupule is either not empowered to make, or has not made, provision for the licensing of any of the professions, trades, callings or acts specified in Schedules 1 and 2.

#### 2 Interpretation

In this Act, unless the context otherwise requires —

“**insurance company**” does not mean or include life assurance company;

“**trading**” includes the doing of any act with a view to or for the purpose of gain or profit other than recruiting.

#### 3 Licences, fees, exemptions and transfers

- (1) Every person following or exercising any of the professions, trades or callings or doing any of the acts specified in Schedules 1 and 2, whether in conjunction with any other profession, trade or calling or act so specified or otherwise, shall take out a licence and pay a licence fee at the rate set forth in the area of authority of each Kaupule in which any such profession, trade or calling is carried on or where any such act is carried out:

Provided that the Minister may exempt from the payment in whole or in part of any fee or fees prescribed by this Act any person or persons or class of persons, and similarly at any time may withdraw or revoke any or all such exemption or exemptions, and may authorise the refund in whole or in part to

any person or persons or class of persons of the amount of any fee or fees paid under the provisions of this Act, but in no case shall refund be allowed unless the application therefor shall have been made during the currency of the period covered by the licence in respect of which a refund is applied for.

- (2) The Minister may, on cause being shown to his satisfaction, direct the transfer of any licence under Schedule 2 from any one person to any other person on payment of a fee of \$2:

Provided that such transfer shall not involve a change of place or building and shall be subject to any law or regulation that may at the time be in force for the specific regulation of the trade or calling on account of which a transfer is sought.

- (3) The Minister may by order amend Schedule 1 or 2.

#### **4 Issue of licences**

The licences specified in the Schedules shall be issued by the licensing officer who shall be the executive officer for the area of authority of the Kaupule to which he is appointed.

#### **5 Duration of licences**

- (1) Licences issued under this Act shall be issued for half-yearly or yearly periods.
- (2) A yearly licence shall expire on the 31st day of December of the year in which it is issued, and a half-yearly licence shall expire on the 30th day of June or 31st day of December whichever day follows next after the date of issue.
- (3) The fee for a half-yearly licence shall be half the fee for a yearly licence plus 10 per centum of such half fee.
- (4) A Falekaupule may by resolution reduce the fees specified in the Schedules but such reduced fees shall only have effect in respect of licences issued for the area of authority of that Falekaupule.

Provided that such amended fees shall only come into effect as and when the Minister by notice approves such resolution and that notice is published at the office of the council.

#### **6 Licences personal**

- (1) Every license issued under this Act in respect of any profession, trade, calling or act specified in Schedule 1, shall enable the person named in such licence to follow or exercise the said profession, trade or calling or to do said act in any part of Tuvalu to which this Act applies.

**Licences to be in respect of stated premises, etc.**

- (2) Every licence issued under this Act in respect of any profession, trade, calling or act specified in Schedule 2 shall state the premises or building in respect of which the said licence has been issued, and shall be valid only for the premises indicated therein, and no such licence shall allow the person or firm named therein to follow, exercise or do in or upon any premises or building, save those or that described as aforesaid, the profession, trade, calling or act specified in the licence.

**7 Auctioneer's licence**

- (1) An auctioneer's licence shall entitle the licensee to sell real and personal property by public auction and shall include a commission agent's licence.
- (2) Notwithstanding anything in this Act, an auctioneer may sell by public auction wines, spirits and beers or firearms, ammunition and explosives —
- (a) when the auction is held by direction of the Minister or of the court;
  - (b) on the occasion of the sale of the personal effects of any person such wines, spirits, beers, firearms, ammunition or explosives being the private property of the owner of such personal effects:

Provided that in such last mentioned case the auctioneer shall first obtain from the Minister a written permit which shall specify particularly —

- (i) the name of the owner of such wines, spirits, beers, firearms, ammunition or explosives;
- (ii) the quantity and kind to be sold;
- (iii) the premises on which the sale is to take place:

And provided further that before such permit is granted the auctioneer shall make a statutory declaration that to the best of his knowledge and belief such wines, spirits, beers, firearms, ammunition or explosives are the private property of the person whose personal effects are about to be sold.

**8 Commission agent's licence**

A commission agent's licence shall entitle the licensee to dispose of real or personal estate or of goods in bulk on commission only and otherwise than by public auction, and to act as forwarding or receiving agent on commission only, but shall not entitle the licensee to act as agent for any insurance company.

**9 Hawker's licence**

A hawker's licence shall entitle the licensee to sell in any quantity all goods or articles in respect of which specific licences are not issued, except that it shall not

permit the licensee to sell goods in any store or building occupied either permanently or temporarily by the licensee but only in a boat or cart or from a basket, pack or container carried by the licensee, or carried by hand:

Provided that a hawker's licence shall not be necessary under this Act for the hawking by a native of native curios or articles of native food or produce made, grown or produced in Tuvalu:

And provided further that nothing herein contained shall entitle any person to hawk any birds whether alive or dead other than poultry.

## **10 Store licence**

A store licence shall entitle the licensee to sell on premises specified in the licence goods in any quantity but shall not permit the hawking of such goods.

## **11 Limitation of privileges under licence**

No licence issued under this Act in respect of any profession, trade, calling or act shall entitle the holder to follow, exercise or do any other profession, trade, calling or act in respect of which the issue of specific licences is provided for under this Act.

## **12 Licences subject to any law for specific regulation of profession, etc.**

The provisions of this Act shall be additional to the provisions of any other law which may be in force upon the coming into operation of this Act, or may thereafter come into force, for the specific regulation or control of any profession, trade, calling or act in respect of which any licence is hereunder required to be taken out.

## **13 Penalty for breach of Act**

(1) Any person following or exercising any of the professions, trades or callings or doing any of the acts specified in the Schedules without a licence granted in respect of the following or exercising of such professions, trades or callings or the doing of any such acts in the area of authority of the Kaupule where such profession, trade or calling was followed or exercised or such act was done or otherwise committing a breach of the provisions of this Act, shall on conviction forfeit a sum not exceeding twice the amount of the proper licence fee for one year, and in default of payment may be imprisoned for 3 months:

Provided that no conviction under this section shall be recorded against any person who, having held a licence which expired on the 30th day of June or the 31st day of December, shall have renewed such licence on or before the last day of the next immediately succeeding month.



- (2) Upon any conviction the court may, in addition to any penalty or other punishment which it may inflict, order the convicted party to pay into court such a sum, not exceeding the proper licence fee for one year payable in respect of the profession, trade or calling on account of which the conviction was obtained, as it may think the public revenue should have received from the convicted party in respect of unpaid licence fees, and in default of payment of such sum within such time (if any) as may be specified in the order such convicted party shall be liable to be imprisoned for 3 months.

#### **14 Accused must prove licence**

In any prosecution under this Act charging any person with following or exercising any profession, trade or calling, or doing any act without a licence, the charge shall be held to be proved if it is shown to the satisfaction of the court that the accused did actually follow or exercise the said profession, trade or calling or do the said act, unless he can produce his licence in court or can show to the satisfaction of the court that such licence was duly taken out.

#### **15 Powers of police and revenue officers**

- (1) Any police officer or revenue officer may at all reasonable times —
  - (i) demand the production of any licence or certificate of registration for inspection;
  - (ii) make any inquiries that he thinks fit to ascertain whether any breach of the provisions of this Act has been committed;
  - (iii) on the authority of a search warrant issued by a justice of the peace, enter into or upon any premises, building or vessel where or in connection with which he has reason to believe that any profession, trade or calling is being followed or exercised, or any act is being done, in respect of which a licence is required to be taken out, and search any such premises, building or vessel, and demand the production of and inspect, and take copies of or extracts from, any books or documents relating thereto.
- (2) If any person obstructs or impedes any police officer or revenue officer in the execution of his duty or refuses to answer any question reasonably put to him by, or makes any false statement to, any police officer or revenue officer, or refuses or fails without lawful excuse to produce any book, document or licence which he is duly required to produce, he shall be liable to a penalty of \$20.

**16 Assisting, etc., commission of offence**

If any person assists in, or procures the commission of, any offence against the provisions of this Act, he shall be liable to be dealt with in the same manner as a principal offender.

**17 Disposal of fees, fines and penalties**

- (1) All licence fees due and payable under this Act within the area of authority of a Kaupule shall be paid to and form part of the revenues of that Kaupule.
- (2) All fines and penalties collected or paid under this Act shall be paid into the Consolidated Fund.

**18 Forms**

All licences, certificates, returns and other documents of like nature to be issued or furnished under this Act shall be in such form as the Minister may prescribe.

**19 Regulations**

The Minister may make regulations generally for the better carrying out of the objects and purposes of this Act.

**SCHEDULE 1<sup>2</sup>****NON-TRANSFERABLE LICENCES**

(Section 3)

	Annual fee \$
Auctioneer	20
Bicycle Owner	1.50
Commercial fisherman	20
Commission Agent	20
Hairdresser	2
Hawker	30
Insurance agent or company	30
Keeping entertainment premises (not required for traditional entertainment)	20
Music or band hire	20

**SCHEDULE 2<sup>3</sup>**

(Section 3)

**TRANSFERABLE LICENCE**

	Annual fee \$
Bakery	10
Boarding house	30
Bus operator	30
Commercial confectionary and tobacconist	5
Commercial industry	100

Commercial piggery	20
Commercial poultry farm	20
Entertainment promoter (not required for traditional entertainment)	25
Hotel	50
Keeping a shop or store	100
Keeping scales commercially	3
Providing refreshment commercially (teashop, milkbar, snackbar, café, restaurant, selling icecream or ice-blocks)	15
Vehicle hire (including taxis and trailers)	20

1. The fee for any activity in Schedule 1 and 2 is the maximum that may be imposed.
2. Any such fee may be reduced for the area of a Kaupule (section 5(4)).
3. Any person, persons or class of persons may be exempted from the payment in whole or in part of any such fee (proviso to s. 3(1)).

The exemption may be made by the Minister in response to representations from Kaupules or any other person as to which person or persons should be exempted. As examples, payment might be partially exempted on grounds of old age, or on the grounds that a business was mainly a family concern.

**ENDNOTES**

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<sup>1</sup>1990 Revised Edition, Cap. 56 - Acts 15 of 1917, 4 of 1920, 6 of 1926, 1 of 1927, 7 of 1927, 3 of 1936, 1 of 1939, 8 of 1939, 4 of 1945, 1 of 1949 (Cap. 57 of 1952), 2 of 1952, 6 of 1957, 8 of 1957, 2 of 1960, 2 of 1961, 6 of 1964, 14 of 1964, 8 of 1968, 2 of 1969, 8 of 1971, 9 of 1971, 3 of 1972 (Cap. 56 of 1973), L.N. 16/74, 14 of 1974, L.N.42/75, 5 of 1982, Pt II

Amended by LN 4/1992

<sup>2</sup> Amended by LN 4/1992

<sup>3</sup> Amended by LN 4/1992