
CHAPTER 329**BUSINESS LICENCE**

LIST OF AUTHORISED PAGES

1 – 4	LRO 1/2010
5 – 10	Original
11 – 12	LRO 1/2010
13 – 16B	LRO 1/2006
17 – 25	Original

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. Requirement for annual business licence.
4. Fee.
5. Separate and distinct kinds of business on same premises.
6. New business.
- 6A. Temporary business licence.
7. Exemption.
8. Application of Act to banks, trust, insurance and non-resident companies.
9. Furnishing of particulars and affording inspection to the Secretary.
10. Audit.
11. Assessment by Secretary.
12. Appeal against Secretary's assessment.
13. Record and validity of licences.
14. Issue of licences and replacement of copies.
15. Display and inspection of licence.
16. Offences.
17. Payment and recovery of fees.
18. Proof of issue of licence.
19. Fees paid for business licences in Family Islands.
20. Permitting use of licence by another.
21. Regulations.
22. Derogation.
23. Expenses under Act.

- 24. Secrecy.
 - 25. Refunds.
 - 26. Amendment of Schedule.
- SCHEDULE — Allowable Costs.

CHAPTER 329
BUSINESS LICENCE
An Act providing for the holding of a business licence.

[Assent 4th September, 1986]
[Commencement 15th September, 1986]

*8 cf 1980, 22 cf 1984, 10 cf 1987
16 cf 1990, 25 cf 1991, 16 cf 1992
9 cf 1993, 39 cf 1993, 16 cf 1994
5 cf 1996, 29 cf 1999, 27 cf 2000
7 cf 2003, 13 cf 2004, 19 cf 2006, 10 cf 2009*

1. This Act may be cited as the Business Licence Act. Short title
2. In this Act, unless the context otherwise requires — Interpretation

“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; Ch 308
- (c) a partnership, the partners of which are citizens of The Bahamas;

“beneficially owned” shall be construed as in section 300 of the Companies Act; Ch 308

“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 any such expenditure or portion thereof as is prescribed in the Schedule to this Act in relation to any business or class of business as being proper to be set off against turnover; 25 cf 1991, s 3

“gross profit” means, in relation to a business, the turnover of that business less the cost incurred producing that turnover; 25 cf 1991, s 3

“licence” means the annual business licence 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;

16 cf 1990, s 7

“Secretary” means any person holding the public office of Secretary for Revenue and includes any officer of the Ministry of Finance or any commissioner, or any person qualified in accounting and, authorised 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 licence.

16 cf 1990, s 7
13 cf 2004

3. (1) Subject to sections 5, 6 and 6A, 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 30th April of every succeeding year, make an application in the prescribed manner to the Minister for an annual business licence 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 licence 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 licence 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; and
- (c) all fees, due and payable under this Act in relation to a business of the applicant, have been paid;
- (d) all Real Property Tax, due and payable under the Real Property Tax Act in respect of property, on which the business is located and of which the applicant is the owner, has been paid (proof whereof shall lie upon the applicant).

16 cf 1990, s 7

16 cf 1990, s 7

(4) Subject to sections 6 and 6A, 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 interests of The Bahamas, cause a licence to be issued in respect of that business subject to compliance with such requirement (if any) as mentioned in paragraph (b) and the provisions of paragraphs (c) and (d). *16 cf 1990*
13 cf 2004

(5) Notwithstanding anything to the contrary in any other law, but subject to sections 7 and 13(2) where the carrying on of a business is subject to a licence being granted pursuant to an application made under any other law, any such licence issued under that other law in respect of a business shall cease to have effect for any period during which the licensee is not the holder of a licence issued under this Act. *16 cf 1990, s 7*

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 licence in relation to a business described hereunder the appropriate fee computed, subject to the provisions of subsection (4), on the following scale — *Fee*
16 cf 1990, s 7

Description of Business	Fee	<i>13 cf 2004</i>
(a) Petty business	\$100.00	
(b) Very small business with —		
(i) a low profit	\$250.00	
(ii) a medium profit	\$500.00	
(iii) a high profit	\$700.00	
(iv) a very high profit	\$800.00	
(c) Small business with —		
(i) a low profit	\$500.00	
(ii) a medium profit	\$750.00	
(iii) a high profit	\$1000.00	
(iv) a very high profit	\$1250.00	
(d) Medium business with —		
(i) a low profit	$\frac{1}{2}\%$ of 1% of its turnover	
(ii) a medium profit	1% of its turnover	
(iii) a high profit	$1\frac{1}{2}\%$ of its turnover	

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- (iv) a very high profit 1½% of its turnover
 - (e) Large business with —
 - (i) a low profit ½ of 1% of its turnover
 - (ii) a medium profit 1% of its turnover
 - (iii) a high profit 1½% of its turnover
 - (iv) a very high profit 1½% of its turnover
 - (f) Very large business with —
 - (i) a low profit ½ of 1% of its turnover or \$140,000.00 (whichever is the greater)
 - (ii) a medium profit 1% of its turnover or \$280,000.00 (whichever is the greater)
 - (iii) a high profit 1½% of its turnover or \$420,000.00 (whichever is the greater)
 - (iv) a very high profit 1½% of its turnover or \$500,000.00 (whichever is the greater)
 - (g) Temporary business 1% of its turnover.

13 of 2004

16 of 1990, s 7

- (2) For the purposes of this section, a business shall be deemed to be —
 - (a) petty, if its turnover does not exceed fifty thousand dollars per annum;
 - (b) very small, if its turnover exceeds fifty thousand dollars but does not exceed one hundred thousand dollars per annum;
 - (c) small, if its turnover exceeds one hundred thousand dollars but does not exceed two hundred and fifty thousand dollars per annum;
 - (d) medium, if its turnover exceeds two hundred and fifty thousand dollars but does not exceed one million dollars per annum;
 - (e) large, if its turnover exceeds one million dollars but does not exceed twenty-eight million dollars per annum;
 - (f) very large, if its turnover is twenty-eight 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) The fee payable for a licence in respect of the carrying on of a business shall be — *16 cf 1990, s 7*

- (a) in the case of a gasoline station which is — *9 cf 1993, s 2*
 - (i) a medium or large business, 1/5 of one per centum of the turnover of the respective business; or
 - (ii) a very large business, the appropriate fee computed on the following scale —

Description of Profit	Fee
A low profit	1/5 of 1% of its turnover or \$140,000.00 (whichever is the greater)
A medium profit	1/5 of 1% of its turnover or \$280,000.00 (whichever is the greater)
A high profit	1/5 of 1% of its turnover or \$420,000.00 (whichever is the greater)
A very high profit	1/5 of 1% of its turnover or \$500,000.00 (whichever is the greater); or

- (b) in the case of a body corporate in which the shares or equity is 60 per centum or above owned by the Government, or a business or operation that is fully owned by the Government, 1/5 of 1 per centum of the turnover of the business,

27 *cf* 2000, s 2
9 *cf* 1993, s 2
Ch. 339.

and for the purposes of this subsection, “gasoline station” means a business at which gasoline and diesel oil are sold by retail under the provisions of the Price Control Act.

10 *cf* 1987, s 2

(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.

10 *cf* 1987, s 3

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

Ch. 372.

Ch. 288.

(2) For the purposes of this Act the carrying on of a business in the nature of a hotel licensed under the Liquor Licence Act and the Hotels Act, shall be deemed to include the provision of meals and recreational facilities to persons patronising the hotel.

New business.

10 *cf* 1987, s 4

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 or a new branch of an existing business, he shall, prior to such commencement, make application in the prescribed manner to the Minister for an annual business licence 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 licence being issued to him:

Provided that where the carrying on of that business is subject to a licence 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 licence 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 licence 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 13(2) it shall be deemed one of the conditions of any licence issued under that other law in respect of a business that such licence is of no effect if the licensee is not the holder of a licence issued under this Act:

Provided that the provisions of this subsection do not apply during the period ending 4th August 2015 to persons or companies carrying on in the Port Area a business to which the Road Traffic Act, the Liquor Licences Act or the Shop Licences Act applies.

39 cf 1993, s 2

(4) Notwithstanding anything to the contrary in this Act, the fee payable for a licence issued pursuant to an application made under subsection (1) in respect of a new business or a new branch of an existing business shall be one hundred dollars.

*10 cf 1987, s 4
13 cf 2004*

(5) Without prejudice to subsection (2), the Minister may refuse to issue a licence 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 —

25 cf 1991, s 3

- (a) that the new business is under the direction or control of substantially the same persons as the business previously carried on; or
- (b) that the new business is substantially the same concern or enterprise as the business previously carried on.

6A. (1) Notwithstanding anything to the contrary in section 6(1) of this Act, where after the coming into operation of this section a foreign person intends in any year to enter into a contract business he shall prior to the commencement of such contract make application in the prescribed manner for a temporary business licence.

Temporary
business
licence

13 cf 2004

(2) Every foreign person that applies for a licence under subsection (1) shall, prior to the issue of such licence, pay a deposit of 1% of the value of the contract as security for the payment of the licence fee to be assessed.

(3) Where a foreign person fails to pay a deposit under subsection (2) the Minister may refuse to grant a licence to such person.

(4) Every foreign person issued a licence under subsection (1) shall produce to the Secretary within ten days of the completion of the contract, a complete account of its contract to enable the Secretary to assess the fees and the Secretary may within two weeks after receipt of such accounts proceed to make an assessment in accordance with this Act of the fee payable by that applicant for the licence and demand payment by, or effect a refund to him of the deposit held under subsection (1) as the case may be.

(5) A foreign person may not during the continuation of a contract apply for a temporary business licence for a new contract without the approval of the Minister.

(6) A subsequent licence shall not be issued under this section where it is established that the applicant procured the contract during the term of another contract in The Bahamas.

(7) This Act shall be complied with before an applicant under subsection (1) is designated “resident” for Exchange Control purposes and before permission is granted to the applicant to hold a local bank account.

(8) A person who knowingly enters into a contract for goods or services with a foreign person who is not in possession of a temporary business licence in accordance with subsection (1) commits an offence.

(9) A foreign person who contracts to carry on a contract to do business without a temporary business licence commits an offence.

(10) A person who contravenes subsections (8) and (9) shall be liable on summary conviction to a fine of one hundred thousand dollars and in addition to the fine, a sum of five thousand dollars for each day the offence continues subsequent to the date to which the conviction relates.

(11) In this section, unless the context otherwise requires —

“foreign person” means —

- (a) a person who is not a citizen of The Bahamas; or

(b) a company incorporated in The Bahamas under the Companies Act, where any of its shares or other capital is beneficially owned by a person who is not a citizen or where it is in any manner, whether directly or indirectly, controlled by one or more of these persons; or

(c) a company incorporated at any place outside The Bahamas engaged in the provision of a temporary business;

“licence” means a temporary business licence issued for a temporary business;

“temporary business” means a business undertaking in respect of the execution of a specific contract for a specified period not exceeding three years.

7. (1) Notwithstanding anything to the contrary in section 4, no fee shall be payable under this Act by —
- (a) persons or companies carrying on business under the Spirits and Beer Manufacture Act; *Exemption.*
10 cf 1987, s 5
 - (b) ecclesiastical, charitable, cultural or educational institutions or organisations within The Bahamas approved for the purpose by the Minister; *Ch. 373.*
10 cf 1987, s 5
 - (c) a medical clinic or hospital carried on within The Bahamas approved for the purpose by the Minister; *10 cf 1987, s 5*
 - (d) clubs or commissaries of any foreign state operating under a special agreement with the Government; *10 cf 1987, s 5*
 - (e) Bahamasair Holdings Limited, a company incorporated under the provisions of the Companies Act; *16 cf 1990, s 7*
Ch. 308.
 - (f) the Water and Sewerage Corporation established by the Water and Sewerage Corporation Act and the Broadcasting Corporation of The Bahamas established by the Broadcasting Act, respectively; *16 cf 1990, s 7*
Ch. 196.
Ch. 305.
 - (g) 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 *10 cf 1987, s 5*

- in the service of the Government or of that body or that other person;
- 10 cf 1987, s 5* (h) 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;
- 10 cf 1987, s 5* (i) any person in the carrying out of his vocation as a minister of religion; or
- 10 cf 1987, s 5*
Ch. 387. (j) any person in the carrying on of a business subject to a licence under the Lotteries and Gaming Act;
- 10 cf 1987, s 5* (k) a business, organisation or institution designated in particular or by reference to a class or other description approved for the purpose by the Minister.
- 25 cf 1991, s 3*
Ch. 357. (l) The Bahamas Development Bank, established by The Bahamas Development Bank Act;
- 25 cf 1991, s 3*
Ch. 290. (m) the Hotel Corporation of The Bahamas established by the Hotel Corporation of The Bahamas Act;
- 25 cf 1991, s 3*
Ch. 254. (n) the Mortgage Corporation of The Bahamas, established by The Bahamas Mortgage Corporation Act;
- 25 cf 1991, s 3*
Ch. 358. (o) The Bahamas Agricultural and Industrial Corporation, established by The Bahamas Agricultural and Industrial Corporation Act; and
- 25 cf 1991, s 3*
Ch. 308. (p) Nassau Flight Services Ltd., a company incorporated under the Companies Act.
- (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.
- 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 licence in accordance with
- Application of Act to banks, trust, insurance and non-resident companies.
Ch. 316.

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 licence within four weeks of the end of each quarter of a financial year (as defined in the said Act) a fee of three 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.

Ch. 347.

22 *cf* 1984, s 2
and Sch
7 *cf* 2003

(3) Subject to this section and section 6A, a company designated as non-resident under the Exchange Control Regulations Act shall pay a fee of three hundred dollars in lieu of the payment of a fee under section 4:

13 *cf* 2004

Ch 360

Provided that the provisions of this sub-section shall not apply to an application by a foreign person engaged in a contract for the provision of a temporary business.

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.

Furnishing of
particulars and
affording
inspection to the
Secretary.

(2) Every person who carries on a business shall keep accounts and records of the activities of the business and shall, for a period of not less than two years from the date of any transaction relating to the business, maintain accounts and records in respect of the transaction; and such person 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), 6A(6), 10 and 11(1), to inspect and take copies of books, records, accounts or other documents kept there in relation to the business.

25 *cf* 1991, s 3

16 *cf* 1990, s 7

¹(3) Every person who carries on a medium, large or very large business shall maintain accounts and records of the activities of the business and shall, for a period of not less than two years from the date of any transaction relating to the business, maintain accounts and records in respect of the transaction.

16 *cf* 1992, s 2

¹ Subsection (3) as added by Act 16 of 1992, section 2, deemed by section 1(2) of the same Act to have come into operation on 1st January, 1992.

Audit.

16 *cf* 1990, s 7
13 *cf* 2004

10. (1) Where the applicant for a licence has tendered a sum of money pursuant to sections 4 and 6A(4) respectively, the Secretary may —

- (a) in the case of an annual business licence within two years of the date of the issue of that licence; or
- (b) in the case of a temporary business licence within two weeks of the completion of the project,

proceed to make an assessment of the fee payable by that applicant for the licence 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) The audit under subsection (1) shall include an examination of overdue debts, if any, the verification of cash balances and securities, and a valuation of the assets and liabilities of the person who carries on the business.

(3) The Secretary and every other person authorised to audit the accounts of a business shall have power at the time of the audit —

- (a) to summon any person who, he has reason to believe, can give material information regarding any transaction relating to the business or the management of its affairs, to give such information;
- (b) to require the production of any book or document relating to the affairs of the business by any person in possession of such book or document.

Assessment by
Secretary.

11. (1) Where the applicant for a licence 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 licence proceed to make an assessment of the fee payable by that applicant for that licence 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 licence, 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 12.

(6) The Secretary shall make an assessment and demand payment of the fee for a licence under subsection (1), notwithstanding that no application for a licence has been made. *25 cf 1991, s 3*

12. (1) If an applicant is aggrieved by the decision of the Secretary made under section 11, 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. *Appeal against Secretary's assessment.*

(2) The Secretary shall upon receiving the notice of appeal, 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 11 and of this section the onus of proving that an assessment is excessive shall be upon the person assessed.

Record and
validity of
licences.

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

13 cf 2004

(2) A licence 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 or the expiry date of a temporary business licence unless sooner revoked by the Minister by reason of the breach of any condition to which the licence is subject:

16 cf 1990, s 7

Provided that a business in respect of which a licence 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 30th April next following that expiration.

Issue of licences
and replacement
of copies.

14. (1) Where a business is carried on at more than one premises any licence 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.

10 cf 1987, s 6

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

Display and
inspection of
licence.

15. (1) The holder of a licence shall —

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

(2) For the purposes of subsection (1) licence includes any copy issued pursuant to section 14.

(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.

16. Every person who —

-
- (a) subject to sections 7 and 13(2), in any year without lawful excuse carries on a business in respect of which there is no licence 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 not less than two hundred and fifty dollars and not more than one thousand dollars for each day the offence continues subsequent to the date to which the conviction relates; and *16 cf 1990, s 7*
- (iii) five times the amount of any sum shown to the court that would have been payable as a licence fee but for the commission of the offence; and *16 cf 1990, s 7*
- (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.

- 17.** (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
licence.

- 18.** (1) In any proceeding in a court, the fact that —
- (a) a licence 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 licence 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 licence 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 licences
in Family
Islands.
9 cf 1993, s 3
5 cf 1996, s 55
and F fth Sch

19. Fees paid in any year for licences in relation to any business situate in the Family Islands, shall be paid into the Consolidated Fund.

Permitting use of
licence by
another.

- 20.** (1) Any person who —
- (a) permits his licence to be used by another;
 - (b) makes use of, trades, or acts in any way with, under, or by colour of a licence granted to another, or of a licence 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 licence shall be forfeited and become null and void except that anyone *bona fide* employed by the holder of a licence may lawfully make use of, trade and act with and under that licence 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 licence made use of a licence of another it shall be presumed until the contrary is shown, that such was done with the knowledge and consent of the latter.

21. 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 — Regulations

- (a) prescribing the manner and the form in which applications for a licence may be made and the form in which licences 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 licence may be held by a, or a particular class of, licensee.
- (c) prescribing anything which is required by this Act to be prescribed.

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

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

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. Secrecy

(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.

Refunds
10 *cf* 1987, s 7

25. (1) Where upon an application made in writing to the Secretary by a person for the re-payment of any monies paid by him under this Act the Minister is satisfied that such payment or any part thereof was made in error or not otherwise required thereunder the Minister may approve of the refund of the appropriate sum.

(2) The approval of the Minister under subsection (1) shall be sufficient warrant for the withdrawal out of the Consolidated Fund of the amount to be refunded.

Amendment of
Schedule
25 *cf* 1991, s 3

26. The Minister may by order amend the Schedule.

25 *cf* 1991, s 3
and Sch

SCHEDULE (Section 2)

ALLOWABLE COSTS

Merchandising
entry (retail/
wholesale)

1. Allowable costs to produce turnover include —

- Purchase price of goods sold including related foreign exchange charges
- Duty and freight and transportation insurance
- Brokerage fees and local transportation from entry point to storage location
- Packaging materials

Among others, costs to produce turnover do not include —

- Sales staff salaries, commissions and national insurance.
- Depreciation or rent
- General insurance
- Interest and finance charges
- Utilities
- Property taxes
- Business licence fees
- Advertising and promotion fees

2. Allowable costs to produce turnover include —Manufacturing
and processing

- Factory production costs relating to goods actually sold.
- Factory production costs would include —
 - (a) Direct materials (which includes purchase price of these materials, related foreign exchange, duty, freight, transportation insurance, brokerage fees and local transportation from entry point to storage location.)
 - (b) Direct labour salaries, commissions and national insurance.
 - (c) Allocated factory overheads including items such as indirect labour and premise cost such as depreciation, rent, maintenance, utilities and insurance which can be clearly associated with the production plant.

Among others, costs to produce turnover do not include —

- General, administrative sales staff salaries, commissions and national insurance
- Depreciation except for production plant
- General insurance
- Interest and finance charges
- Utilities except those associated with production plant
- Property taxes
- Business licence fees
- Advertising and promotion fees

3. Allowable costs to produce turnover include —Professionals
(accountants,
doctors, law-
years, architects,
engineers, etc)

- Professional, technical and secretarial staff salaries, commissions and national insurance not to exceed 50% of turnover
- Technical supplies and materials
- Training expenses
- Professional indemnity insurance

Among others, costs to produce turnover do not include —

- Administrative staff salaries, commissions and national insurance
- General insurance except professional indemnity
- Interest and finance charges
- Utilities
- Property taxes
- Business licence fees
- Advertising and promotion fees
- Office depreciation or rent

Real property
rental

- 4. Allowable costs to produce turnover include —**
- Depreciation of rental property
 - Management fees or salaries, commissions and national insurance of property manager where applicable
 - Utilities if included in rental fees
 - Commissions to agents not to include partners/managers/owners
 - Maintenance costs

Among others, costs to produce turnover do not include —

- Administrative staff salaries, commissions and national insurance
- General insurance
- Interest and finance charges
- Utilities if not included in rental fees
- Business licence fees
- General advertising and promotion fees
- Property taxes

Property
management/
realty Co

- 5. Allowable costs to produce turnover include —**
- Salaries, commissions and national insurance of sales and property management staff
 - Commission to outside agents

Among others, costs to produce turnover do not include —

- Non-sales staff salaries, commissions and national insurance
- General insurance
- Interest and finance charges
- Utilities
- Property taxes
- Business licence fees
- Advertisement/promotion
- Office depreciation

Rental equipment
(cars, scooters,
machinery)

- 6. Allowable costs to produce turnover include —**
- Franchise fees, if applicable
 - Licensing fees for rental equipment
 - Rental equipment and liability insurance
 - Commissions to outside agents
 - Rental equipment maintenance

Among others, costs to produce turnover do not include —

- Sales staff salaries, commissions and national insurance
- Depreciation
- General insurance except for rental equipment and liability.
- Interest and finance charges
- Utilities
- Property taxes
- Business licence fees
- Advertising and promotion fees

7. Allowable costs to produce turnover include —

Contractors of all kinds

- Contract costs which include —
 - (a) Direct materials (which includes purchase price of these materials, related bank charges, duty, freight, transportation insurance, brokerage fees and local transportation from entry point to storage location).
 - (b) Direct labour salaries, commissions and national insurance.
 - (c) Allocated overheads such as costs for lease/rental/depreciation of equipment and tool costs which can be associated to the contract.
 - (d) Subcontractor costs and consultancy fees.

Among others, costs to produce turnover do not include —

- Administrative staff salaries, commissions and national insurance.
- General insurance
- Interest and finance charges
- Utilities
- Property taxes
- Business licence fees
- Advertising and promotion fees

8. Allowable costs to produce turnover include —

Bus service/tour operators/taxi cabs

- Licence fees for equipment
- Fuel for transportation equipment
- Drivers' salaries, commission and national insurance
- Insurance on transportation equipment
- Maintenance of transportation equipment
- Commissions where applicable

Among others, costs to produce turnover do not include —

- Salaries, commissions and national insurance except for drivers
- Building depreciation or rent
- General insurance except on transportation equipment
- Interest and finance charges
- Utilities
- Business licence fees
- Advertising and promotion fees
- Depreciation

Charter services
(boats,
aeroplanes,
etc)

9. Allowable costs to produce turnover include —

- Licence fees for equipment
- Equipment insurance
- Liability insurance
- Boat operator/pilot salaries, commissions and national insurance
- Fuel for operating equipment
- Equipment maintenance
- Tie-down and dockage fees

Among others, costs to produce turnover do not include —

- Administrative and sales staff salaries, commissions and national insurance
- Building depreciation or rent
- General insurance except on equipment and liability
- Interest and finance charges
- Utilities
- Property taxes
- Business licence fees
- Advertising and promotion fees
- Depreciation

Fishing (vessel)
operation

10. Allowable costs to produce turnover include —

- Salaries, commissions and national insurance for captain and crew only
- Fuel for boat
- Boat operating costs and maintenance
- Interest and finance charges relating to the acquisition of fishing vessels

Among others, costs to produce turnover do not include —

- Administrative staff salaries, commissions and national insurance
- General insurance except on boat
- Interest and finance charges, except those relating to the acquisition of fishing vessels
- Utilities
- Business licence fees
- Advertising and promotion fees
- Depreciation

11. Allowable costs to produce turnover include —

- Food and beverage costs including duty, freight and local transportation from port of entry
- Supplies (packaging, utensils, condiments)
- Cooking gas and water
- Salaries, commissions and national insurance of cooks, kitchen staff and waiters
- Franchise fees, if applicable

Restaurant/
proprietary
clubs, etc

Among others, costs to produce turnover do not include —

- Administrative staff salaries, commissions and national insurance
- General insurance
- Interest and finance charges
- Utilities except those associated with the kitchen
- Property taxes
- Business licence fees
- Advertising and promotion fees
- Telephone and electricity
- Depreciation/rent

12. Allowable costs to produce turnover include —

- Food and beverage costs including duty, freight and local transportation from port of entry.
- Supplies (packaging, utensils, condiments)
- Commission to travel agents
- Salaries, commissions and national insurance of cooks, kitchen staff, service staff, housekeeping, maintenance and sales staff
- Utilities
- Maintenance costs

Hotels/guest
houses, etc

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- 9 cf 1993, s 4 — Franchise fees (if applicable)
- 9 cf 1993, s 4 — Promotion and marketing costs
- 9 cf 1993, s 4 — Depreciation
- Among others, costs to produce turnover do not include —**
- Administrative/office staff salaries, commissions and national insurance
- General insurance
- Interest and finance charges
- Property taxes
- Business licence fees
- Advertising and promotion fees
- Depreciation
- Mailboat and freight services **13. Allowable costs to produce turnover include —**
- Salaries, commissions and national insurance for captain and crew
- Commission to agency (where applicable)
- Port and dock charges
- Loading/unloading fees
- Liability insurance
- Repairs and maintenance
- Fuel, oil and gas
- Finance charges related to acquisition of mailboats only.
- Among others, costs to produce turnover do not include —**
- Administrative staff salaries, commissions and national insurance
- General insurance except on boat
- Interest and finance charges, except those relating to the acquisition of boat
- Utilities
- Business licence fees Advertising and promotion fees
- Finance charges other than for mailboats
- Farming or poultry operation **14. Allowable costs to produce turnover include —**
- Raw materials and chemicals
- Fertilisers and/or feed and medication
- Rental of farm equipment
- Processing and packaging costs
- Technical and direct farm labourer salaries, commissions and national insurance

Among others, costs to produce turnover do not include —

- Administrative sales staff salaries, commissions and national insurance
- Depreciation
- General insurance
- Interest and finance charges
- Utilities
- Property taxes
- Business licence fees
- Advertising and promotion fees
- Depreciation

15. Allowable costs to produce turnover include —Service/repair
entities

- Direct labour and national insurance
- Direct materials and parts including freight, duty, foreign exchange, brokerage fees and local transportation from port of entry to business location/storage
- Allocated overheads including indirect labour, electricity and depreciation that can be clearly associated with service area

Among others, costs to produce turnover do not include —

- General administrative sales staff salaries, commissions and national insurance
- Depreciation except for service area
- General insurance
- Interest and finance charges
- Utilities except those clearly associated with service area
- Property taxes
- Business licence fees
- Advertising and promotion fees