### THE LICENCES ON TRADES AND BUSINESS ACT

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#### **SCHEDULES**

### THE LICENCES ON TRADES AND BUSINESS ACT

[1st April, 1908.]

Cap. 221. Law 13 of 1961. Acts 31 of 1979, 12 of 1985 Sch., 21 of 1988, 15 of 2014 Sch.

1. This Act may be cited as the Licences on Trades and Business Short title Act.

### 2. In this Act—

Interpretation

"auctioneer" means any person who sells the lands or goods of another by public outcry or for a commission on his own premises or on those of the owner of the lands or goods, according to the tenor of the licence:

Provided always that a person who sells lands or goods by auction only by the direction of the Government, a Court, or a Parish Council shall not be deemed an auctioneer:

"Collector" or "Collector of Taxes" includes any other 31/1979 authorized officer of Revenue;

- "commission agent" means any person who sells goods of another for a commission on his own premises or on those of the purchaser:
- "general factor" means any person who sells goods of others on their account, whether the produce of estates or otherwise:

Provided always that an attorney acting for an absentee proprietor and limiting his transactions to the business of his principal, shall not be deemed a general factor;

"merchant" means any person who imports, whether for himself or on consignment, goods for sale, and includes any person who sells and delivers from a customs, excise or other warehouse;

- "newspaper" means any paper containing public news, intelligence or occurrences, or any remarks, or observations thereon printed for sale, and published in Jamaica periodically, or in parts or numbers, at intervals not exceeding twenty-six days between the publication of any two such papers, parts or numbers;
- "retailer" means any person occupying a store, shop, room or fixed stand, who buys from a merchant, importer or otherwise, or who himself imports and sells in small quantities by retail to those who resell, use, or consume the goods;
- "super-cargo" means the master or other person selling goods on board any vessel within the waters of this Island;
- "wharfinger" means any person who is in occupation of any public wharf and carries on the business of landing, receiving and otherwise dealing with thereat the goods of other people;
- "wholesale dealer" means any person who sells by wholesale or by both wholesale and retail on the same premises.

Trade Licenses. 13/1961 S.2(a). 31/1979 S.4(a). First Schedule 3.—(1) Subject to subsection (1A), every person carrying on trade or business specified in the First Schedule shall, on the first day of April in each year, take out a licence according to the classification in that Schedule of such trade or business:

Provided that the following persons shall not be compellable to take out licences under this Act—

(a) any person taking out a licence to retail spirits or to keep a tavern or hotel under the Spirit Licence Act in respect of the premises and in regard to the commodities mentioned in such licence, and in respect of the sale on the same premises of wine, malt liquors, and all other description of distilled or fermented liquor;

Cap. 275 1953 Edtn. (Omitted).

(b) any person occupying a stall or stand in any public general market under the Parochial Markets Law,

and paying market fees in respect of such stall or stand; and any person paying market fees under the provisions of the sections of Part VIII of the Kingston and St. Andrew Corporation Act, relating to markets in respect of the stalls or premises in respect of which such fees are paid:

- (c) any person licensed under the Agricultural Produce Act, or any amendment thereto in respect of the premises and in regard to the commodities mentioned in such licence:
- (d) any person either by himself, member of his family, his known agents or servants, selling any bread, fresh fish, milk, fruit, vegetables, ground provisions, vegetable roots or other vegetable commodity known as breadkind, or any other article of farm agricultural produce of this Island or ice, or the real worker or workers, maker or makers of goods, wares or manufactures of this Island, selling by themselves or their servants such goods, wares or manufactures of their own making:
- (e) any corporation which proves to the satisfaction of the Minister that it has been formed for any purpose connected with social or public welfare. the public services, religion, charity, education, art or science, and that it applies its income and profits solely for promoting all or any of such purposes, and that it does not permit the payment of any dividends to its members.
- (1A) A person who takes out a licence subsequent to 31/1979 the first day of April in any year but prior to the first day of May in that year, shall be regarded for the purposes of subsection (1) of this section and of section 23 as having taken out a licence in the prescribed time.
- (2) The Minister responsible for finance may by order \$\frac{13}{5}\$, 2 (b). revoke, increase, reduce or alter any licence duty specified in the First Schedule and may add any licence duty thereto. Schedule.

- (3) An order made under subsection (2) may contain such consequential, supplemental or ancillary provisions as appear to the said Minister to be necessary or expedient for the purpose of giving due effect to the order.
- (4) An order made under subsection (2) shall be subject to affirmative resolution of the House of Representatives.

Return to be made to Collector of Taxes. First Schedule. 31/1979 S. 5. 4.—(1) Every person carrying on a trade or business specified in the First Schedule shall, within the time fixed by this Act for taking out a licence, make out and submit to the Collector of Taxes of the parish in which such person carries on his trade or business, a return in the form set out in the Second Schedule.

Second Schedule.

(2) Where two or more persons are liable to be charged as in partnership, one return only is required, and such return shall be made by them jointly or by one or more, on behalf of himself, or themselves, and the rest of the persons so liable.

Classification of retailer. 21/1988 S. 2.

- 5.—(1) For the purposes of this Act, retailers are classifiable as follows—
  - Grade I, being retailers whose annual turnover does not exceed \$5,000
  - Grade II, being retailers whose annual turnover exceeds \$5,000 but does not exceed \$15,000
  - Grade III, being retailers whose annual turnover exceeds \$15,000 but does not exceed \$30,000
  - Grade IV, being retailers whose annual turnover exceeds \$30,000 but does not exceed \$50,000
  - Grade V, being retailers whose annual turnover exceeds \$50,000 but does not exceed \$100,000
  - Grade VI, being retailers whose annual turnover exceeds \$100.000 but does not exceed \$500.000
  - Grade VII, being retailers whose annual turnover exceeds \$500.000.

- (2) Subject to the provisions of this Act, the annual turnover of any retailer shall, for the purposes of this Act, be such amount as the Collector of Taxes is satisfied, taking into account any particulars furnished by the retailer, is that retailer's annual turnover.
- (3) For the purposes of subsection (2) each retailer shall furnish to the Collector of Taxes particulars of the retailer's turnover, being, at the option of the retailer, either—
  - (a) for the twelve consecutive months immediately preceding the first day of April; or
  - (b) for the preceding calendar year.
- (4) Where a retailer has been in operation for less than twelve consecutive months immediately preceding the first day of April, then the particulars furnished for the purposes of subsection (2) shall be a notional turnover calculated by the proportionate extension, over the twelve consecutive months immediately preceding the first day of April, of the value of the gross sales realized by that retailer during the months of actual operation of his trade or business, so, however, that the particulars furnished under this subsection may be modified by such information as the retailer thinks relevant or as may be required by the Collector of Taxes.
- (5) Where an applicant for a licence as a retailer has no previous record of trading as a retailer at the proposed location, the applicant shall furnish such particulars and estimates as he considers may be helpful in the circumstances or as may be required by the Collector of Taxes; and his annual turnover shall be deemed, for the purposes of this Act, to be such amount as the Collector of Taxes estimates would be realized by the applicant during the twelve consecutive months next following the date of the application.
- (6) The Collector of Taxes may require a retailer or an applicant for a relevant licence to furnish to him such documents, records or other information as such Collector

of Taxes may think necessary or desirable for the purposes of this section.

(7) In this section "annual turnover" in relation to a retailer, means the gross value of the sale of goods by him for a period of twelve consecutive months, determined in accordance with this section.

## 6. [Repealed by Act 31 of 1979.]

Delivery of licence on payment of duty. 31/1979 S. 12. First Schedule.

7. If the Collector of Taxes shall be satisfied with the correctness of the return made to him by any person, he shall, on being paid the amount of duty (or a moiety thereof in cases where a moiety may be accepted) in the First Schedule specified for the trade or business, according to the description thereof, entered in such return, deliver to the applicant a licence for such trade or business, for which the applicant shall have made such return; and every such licence shall be endorsed with a certificate under the hand of the Collector to the effect that such and such an amount of duty (being the amount of duty (or a moiety thereof) specified in the said Schedule for the trade or business, for which the licence is granted), has been paid by the applicant to such Collector.

In cases of wrong return Collector may assess. 31/1979 S. 12. 8. If the Collector of Taxes shall consider that any person, in making such return, has placed himself under a wrong description, or amount of duty, such Collector of Taxes shall assess such person according to the description and amount of duty for which he shall consider the applicant to be liable, which assessment shall be subject to an appeal, according to the directions hereinafter contained.

In default of return, Collector may assess and add surcharge, 31/1979 S. 12. 9. Where any person carrying on a trade, or business, shall neglect or refuse to make the return, and within the time by this Act required, the Collector of Taxes shall assess such person to the trade, or business, to which such person is liable, according to the best of the judgment of such Collector of Taxes and shall add thereto one-twentieth part

of the duty so assessed, as and by way of surcharge or penalty, which assessment shall be subject to an appeal, according to the directions hereinafter contained.

10. When the Collector of Taxes shall have made an Notice of assessment differing from the return given in, or where no assessment return shall have been given in, such Collector of Taxes to be served. shall deliver to the party assessed, either personally, or by \$\frac{31}{5}\$. 12. leaving it at his place of abode or business, a notice showing the assessment so by him made, adding the surcharge or penalty, where the assessment is liable thereto; and every such assessment, so made by the Collector of Taxes shall be binding upon the person charged unless he shall within fourteen days of the receipt of such notice appeal therefrom, as hereinafter mentioned.

11. Where two or more persons shall be in partnership, in case of the licence shall be taken out in the name of the firm; and partnership. it shall not be necessary to take out a separate licence for each partner.

12. Where different places of business, stores, shops or Bach place other premises are kept in the name of one person, or firm, of business chargeable. a separate licence shall be taken out for each place of business, store, shop or other premises:

Provided that the opening of another store, or place of reception of goods, and at which no sales are effected, shall not be deemed to come within the meaning of this section.

13. If any person or firm shall commence trade, or Person combusiness, or open any new place of business, store, shop business or other premises (except as aforesaid or where it is only during curthe change of the place of business in the same town, in which latter case notice thereof shall be given to the Collector of Taxes) during the current year, he or they shall 31/1979 pay the duty, or proportion of duty, for so many quarters of a year (the fractional part of a quarter being reckoned as a quarter), as shall remain of the current year.

[The inclusion of this page is authorized by L.N. 17/1989]

Notice of change of location of business. 31/1979 S. 8.

# 14. Any person-

- (a) who has paid a licence duty under this Act as the occupier of any store, shop, room or yard, where goods are sold by retail; and
- (b) who changes his place of business to other premises in the same parish,

shall notify the Collector of Taxes of the parish of the change of premises and, subject to section 15, the licence in respect of which the duty was paid shall thereupon enure as a licence to that person to do business at the premises to which he has moved.

Duty on change of location of business. 31/1979 S. 9.

# 15. Any person—

- (a) who has paid a licence duty under this Act; and
- (b) who changes his business or moves into premises in the same parish so that a higher duty will, in the opinion of the Collector of Taxes of the parish, become payable,

shall be liable to pay to the Collector of Taxes for the unexpired quarters of the current year any additional licence duty payable consequent on the change or removal.

Licences to masters of vessels, supercargoes, etc. 31/1979 S. 12. First Schedule. 16. Every master, super-cargo, or other person on board of any vessel arriving in any of the ports of this Island, before he shall sell, or offer for sale any goods whatsoever, shall make a return to the Collector of Taxes of the parish, and pay the sum in the First Schedule, fixed for persons carrying on the trade or business of a super-cargo, and take out the licence therefor, under a penalty, in case of default, not exceeding twenty dollars, in addition to the duty under this Act; and every such master, super-cargo, or other person shall produce such licence to the Collector of Customs in Kingston, or the Sub-Collector at any other port prior to entry inwards of such goods for consumption in this Island.

17. Every person carrying on, or conducting any Proprietors newspaper in this Island, shall, in addition to paying of newspapers to the duty and taking out the licence by this Act give certain information required, give in at the time of paying such duty, to Collector. and taking out such licence as aforesaid, to the  $\frac{31/1979}{5.12}$ Collector of Taxes of the parish in which such newspaper is published, the title of such newspaper, the place at which the same is published, and the name and residence, or names and residences of the person or persons who is, or are, the proprietor or proprietors of such newspaper; and shall, in case of any change in the proprietorship, place of publication, or title of the newspaper, immediately thereupon give in to the Collector of Taxes the particulars of any alteration which shall occur in respect of any of the matters aforesaid; and the name and residence of each proprietor, and the place where the newspaper is published, together with the date of publication, shall be printed at the foot or end of each such newspaper, under a penalty in respect of each default or neglect of the provisions herein contained, not exceeding six dollars, nor less than two dollars:

Provided that in the case of any newspaper that may be Proviso as registered as a limited liability company, the name and liability residence of the manager or secretary or such other person company. who under the articles of association of such company is the person to sue or be sued shall be substituted for those of the proprietor or proprietors.

18. Any person paying the highest rate of licence duty Persons under this Act and being licensed accordingly, shall be bighest duty entitled to carry on on one premises named in the licence entitled to the trade or business of a retailer, and on the same premises, privileges. retail his own goods. And any person who sells or delivers goods from bonded or other warehouses detached from his business premises shall be presumed to be a merchant for the purposes of this Act, unless the character of the transaction negatives such a presumption.

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Licences to be taken out where trade, etc., commenced after the year began. 31/1979 S. 12. 19. Every person commencing business, or opening a new place of business, store, shop or other premises (except as aforesaid), shall within fourteen days thereafter, make a like return to the Collector of Taxes as is hereinbefore required to be made at the commencement of the current year, and shall pay the proportion rightly payable for the licence under this Act, and shall obtain licence accordingly.

In default Collector may assess. 31/1979 S. 12. 20. In every case where no such return, as last mentioned, shall be made, or the Collector of Taxes shall be dissatisfied with the return so made, he shall assess the person so commencing business, or opening a new place of business, store, shop or other premises as aforesaid, according to the best of his judgment. Every such assessment shall be binding upon the person charged, unless he shall within fourteen days of the notice of such assessment appeal therefrom as hereinafter mentioned.

Parish
Council or
Corporation
as Board of
Appeal in
certain cases,

21. Where any person carrying on a trade or business questions the classification or grading of the trade or business by the Collector for the purposes of this Act, that person may submit such question to the Parish Council of the parish as a Board of Appeal for decision, and the finding of such Board shall be final:

Provided that in the case of any question arising under this section in the parishes of Kingston or St. Andrew, any such question shall be submitted to the Council of the Kingston and St. Andrew Corporation appointed and constituted under the provisions of the Kingston and St. Andrew Corporation Act.

Board of Appeal, its powers. 22. The Board of Appeal or the Council of the Corporation as aforesaid shall sit for such purpose at such times as it shall fix, giving not less than one week's previous notice in the Gazette of the time and place of sitting for hearing appeals under this Act, and shall have power and authority on the hearing of such appeals, to examine the parties and their witnesses upon oath; and every such Board of Appeal

and the Corporation shall have power to adjourn from time to time as they may see occasion.

23. If any person carries on a trade or business mentioned in the First Schedule, without having within the time prescribed taken out the licence herein provided, he shall be liable to a penalty not exceeding two dollars for every day on which, while unlicensed, he carries on such trade or business. The payment of such penalty, or the undergoing of any term of imprisonment imposed in default of payment of such penalty, shall not in any manner prejudice, or affect any proceedings afterwards instituted for the recovery of the amount payable in respect of any such licence.

Penalty for not taking out licence Lirst Schedule

24. In the following sections 25 to 30 both inclusive, the expression "shop" shall not include any premises which contains any dwelling or living room having an internal communication by door, window, jalousie, passage or otherwise, with the place or room in which the trade or business in respect of which the licence is granted is carried on or in which the separating partition is not close boarded or built up to the roof.

What "shop" does not include for purposes of certain sections

25.—(1) Notwithstanding anything contained in the preceding sections, a retail licence granted to any person shall not entitle that person to sell wine, beer, or other malt liquors unless the licence contains a certificate signed by the Collector of Taxes for the Parish in which the premises are situated certifying that the licensee has delivered to him a statement signed by the Superintendent of Police or a Justice for the said Parish to the effect that the licensee is a fit and proper person to sell such commodities.

Certificate of fitness condition precedent to granting of licence

- (2) Any person who sells wine, beer, or other malt liquors in contravention of this section shall for every such offence be liable to a penalty not exceeding four dollars.
  - **26**.—(1) [Deleted by Act 15 of 2015, Schedule.]

Licence duty to sell wine, beer,etc., other than in a shop. **27.** Where the trade or business of selling wine, beer, or other malt liquors, is carried on in premises other than a shop in the urban or suburban districts of the Corporate Area as defined by the Kingston and St. Andrew Corporation Act, there shall be charged in respect of a licence to carry on such business a licence duty of twenty dollars.

Licence to be publicly displayed.

- 28.—(1) The licence to sell wine, beer, or other malt liquors, shall be publicly exhibited in a conspicuous place on the premises where such wine, beer, or other malt liquors, are kept or exposed for sale.
- (2) Any person who contravenes the provisions of this section shall be liable to a penalty of four dollars.

Offences by licensed persons.

- **29.** Any person holding a licence under this Act for the sale of wine, beer, or other malt liquors, and any person who is the manager or actual keeper of premises in which such wine, beer, or other malt liquors, are sold who shall—
  - (a) permit or suffer persons of notoriously bad character to assemble and meet together therein; or
  - (b) suffer any unlawful games or any gaming whatsoever therein; or
  - (c) supply wine, beer, or malt liquor, to a person already intoxicated; or
  - (d) permit or suffer or fail to use his best endeavours to prevent and put an end to any disorderly or improper conduct therein; or
  - (e) permit any person not employed or having lawful business there, to remain on premises other than a shop within the meaning of this Act between the hours of midnight and six o'clock in the morn-

ing, the proof that such person was so employed or had lawful business to lie on the party accused, shall be liable to a penalty of ten dollars and for any subsequent offence to a penalty of forty dollars and shall be liable also to forfeit his licence. The person in whose name the licence is held and the person who is the actual keeper or manager of the premises, shall each be equally liable to the penalties provided by this section and for any breach of this section committed by any servant or servants employed on the premises.

- 30. Any person who, in any part of the premises where Offences. wine, beer, or other malt liquors, are sold under licence. shall be guilty of-
  - (a) drunkenness or other disorderly or improper conduct:
  - (b) engaging in any unlawful games or gaming:
  - (c) being found in any such premises, other than a shop, between the hours of midnight and six o'clock in the morning, unless such person be employed on the premises or have lawful business there, the proof of such employment or lawful business to lie on the party accused,

shall for every offence be liable to a penalty of ten dollars.

31. All penalties under this Act shall unless otherwise Recovery of provided be recoverable summarily in the parish in which penalties. the offender resides, or where the offence was committed and shall be enforceable in default of payment of such penalty by imprisonment with or without hard labour for a period not exceeding thirty days.

32. In the case of any applicant for a licence for a whole Payment of year (but not for a shorter period), it shall be sufficient that duty by instalments the applicant shall pay one moiety of the licence duty pay- and see able at the time of application, provided such moiety is paid within the month of April; and in every case in which a moiety only shall be so paid, the second moiety shall be

paid to the Collector on or before the first day of October following, in default of which payment, the Collector may recover the same and the costs thereof, by distress and sale of the goods and chattels of the person to whom such licence was granted wheresoever found, and on any goods and chattels found on the premises in respect of which the licence duty is due and unpaid, on which a landlord might distrain for rent in arrear:

Provided, that if the business for which such second moiety as aforesaid shall become due, shall have been discontinued previously to its becoming due, and notice of such discontinuance of business shall have been given to the Collector, and the licence receipt for the first moiety thereof shall have been surrendered to such Collector with an indorsement thereon, dated and signed, to the effect that such business has been discontinued, the person so licensed and acting as aforesaid, and the place so licensed, shall be relieved from payment of such second moiety, otherwise the power and authority provided in this Act to recover such second moiety shall remain in full force and effect:

12/1985 Sch. Provided also, that in any case in which the Commissioner of Inland Revenue is satisfied that a business was discontinued before the second moiety became due, he may forego the collection of the second moiety, notwithstanding that the notices required have not been given, nor the licence surrendered.

Minister may refund or remit duty. 21/1988 S. 3.

- 32A.—(1) The Minister, on an application made by the person who has paid or is liable for the payment of any licence duty under this Act, may, if he thinks fit, refund or remit in whole or in part such licence duty.
- (2) A notice of any refund given or remission granted pursuant to subsection (1) shall be published in the Gazette.

<sup>[</sup>The inclusion of this page is authorized by L.N. 17/1989]

33. The Commissioner of Inland Revenue may refund Refund of any amount of licence duty which may appear to him to over-paid duty. have been overpaid under this Act.

12/1985 Sch.

34. All licence duty due and payable under this Act, Duty together with any surcharge thereon may be enforced under enforceable. the provisions of the Tax Collection Act.

35. Moneys derived from licences under this Act, shall Application be dealt with and applied under and in accordance with of duties collected. the provisions of the Parochial Rates and Finance Act, except in the cases of the parishes of Kingston and St. Andrew, where they shall be applied in accordance with the provisions of Part VIII of the Kingston and St. Andrew Corporation Act, which relate to markets.

36.—(1) Notwithstanding anything contained in section Charges on 35, or in section 190 of the Kingston and St. Andrew Cor-revenue of poration Act, the principal moneys of those portions of the derived from loan, and any interest thereon, authorized to be raised, for licences. the purpose of expenditure on Housing Schemes and on the construction and improvement of Parochial Water Supplies, by the Public Works Loan Law secured, or to be Cap. 229 secured, by Stock, Debentures or other securities issued (1938 Edtn. Omitted). under the authority of that Law and the contributions to the Sinking Fund for the redemption of the Stock, Debentures or other securities in respect of those portions of the loan, are hereby charged, subject to the provisions of subsection (2), on the revenue of the Kingston and St. Andrew Corporation, and of the several Parish Councils of the Island, derived from licences issued under this Act, as security respectively to the Government for the liability, under the said loan Law, of the Consolidated Fund and the assets of the Government in respect of the said Stock, Debentures or other securities.

(2) The revenue of the Kingston and St. Andrew Corporation, or of a Parish Council, derived as aforesaid, shall be chargeable only with, and shall be liable only to the extent of, that amount of the principal moneys of the said portions of the loan, and interest thereon, actually expended in the Corporate Area, or in the Parish, for the said purposes, or either of them, and for contribution to the Sinking Fund in respect of such amount only.

Payment of duties.

37. Notwithstanding anything contained in this Act the duties imposed thereunder may be paid and collected quarterly.

21/1988 B. 4.

#### FIRST SCHEDULE

(Section 3)

Licene	ce to carry on the business	of—	
(a)	Merchant, General Factor or Wholesale Dealer	For each designated place of business with liberty to store in and deliver out of public and other warehouses \$1	.000,
(b)	Auctioneer or Commission Agent	For each person carrying on business and shall include one designated place of business \$	500
(c)	Wharfinger	For each Wharf \$	500
(d)	Super-cargo	For each person carrying on business \$	500
(e)	Proprietor of Newspaper	For each designated Newspaper—  (i) Daily \$  (ii) Other than Daily \$	2,000 200
<b>ග</b>	Retailer	Grade III Retailer \$ Grade IV Retailer \$ Grade V Retailer \$ Grade VI Retailer \$	20 50 100 300 1,000 2,500

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				SECOND	<b>SCHED</b> ULE	(Section 4)
	31/1979 S. 11.	APPLICATI	ion for Licen	CE UNDER THE I	LICENCES ON TRADES AN	D BUSINESS ACT
J.	PARISH OF:					
inclusion of this	1			re business is ried on	If Application is for Licence as a Retailer, particu- lars of turnover at each place of busi-	Direction
page is	Name of Party	Trade or Business	Town	Street and Number	ness	
is authorized						For the purpose of determining turnover under section 5 of the Act, particulars should be furn- ished of—
by L.N. 5		·				(a) the gross value of sales of goods at each place of business during the calendar year preceding 1st
57/1980]						April, or the gross value of sales of goods as aforesaid during the twelve consecutive months (or less than twelve as the case may be) immediately preceding 1st April; and

# APPLICATION FOR LICENCE UNDER THE LICENCES ON TRADES AND BUSINESS ACT

### PARISH OF:

		Place when	re business is ied on	If Application is for Licence as a Retailer, particu- lars of turnover at each place of busi-	Direction
Name of Party	Trade or Business	Town	Street and Number	ness	
					(b) the gross value of sales of goods as aforesaid projected for the next twelve consecutive months and
	•				(c) particulars and documents used in determining (a) and (b); and
					(d) such other information as the applicant considers relevant to the determination of turnover.

I		declare	that the above	return is in all	factual respect
true; and I apply for a licen	ce in terms hereof.				
		Dated the	day	of	19.
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Signature of Applicant.

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57/1980	

SECOND SCHEDULE, contd.		(Sec
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