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GENERAL NOTICE 124 OF 2021

**PUBLICATION OF THE FREE STATE INTEGRATED LOCAL ECONOMIC DEVELOPMENT
AND TRANSFORMATION BILL**

It is notified for general information and comment that the abovementioned Bill is hereby published in terms of the Rules and Orders of the Free State Legislature.

Any comments or remarks must be submitted to the Secretary: Free State Legislature, Private Bag X20561, Bloemfontein, 9300 OR DominicM@fsl.gov.za to reach him not later than **11 February 2022**.

MR MJ MACHAKA
SECRETARY: FREE STATE LEGISLATURE

BILL

To provide for the promotion and development of Free State economy and to create a conducive environment for the attainment of that purpose; by regulating the licencing of businesses, providing for exclusive ownership and operation of certain specified business categories for citizens, regulation of foreign ownership of certain business categories through prescribed quotas, designating certain commodities for mandatory enterprise development by all businesses and Provincial state organs, provide for mandatory and exclusive sourcing and procurement by state organs, of locally produced commodities, to provide for establishment and administration of business councils in the local and provincial spheres of government as a coordinating representative of businesses community in those respective areas, and to provide for matters connected therewith or incidental thereto.

PREAMBLE

WHEREAS section 9 of the Constitution guarantees the right of everyone to equal protection and benefit of the law, and empowers the State to undertake legislative and other measures designed to promote the achievement of equality by protecting and advancing persons or categories of persons disadvantaged by unfair discrimination;

WHEREAS section 22 of the Constitution guarantees the right of every citizen to choose his or her trade, occupation or profession freely, and empowers the State to regulate the practice of trade, occupation or profession by law;

WHEREAS the Free State Provincial Government recognises that the significant participation and meaningful inclusion of citizens into the mainstream economy of the Province through their own small enterprises that are supported by the Government and big business will be one of the game changers;

AND WHEREAS the Free State Provincial Government acknowledges that the province must have self-sufficient and vibrant economic centres,

BE IT THEREFORE ENACTED by the Provincial Legislature of the Province of Free State, as follows:-

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CHAPTER 1

PRELIMINARY PROVISIONS

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Definitions

- 1. In this Bill, unless the context indicates otherwise –

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"black people" means citizens as defined in section 1 of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

"black person" has a corresponding meaning;

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"citizens" means citizens of the Republic by birth, descent or naturalisation as contemplated in the South African Citizens Act, 1995 (Act No. 88 of 1995);

"co-operative" means a co-operative registered in terms of section 7 of the Co-operatives Act, 2005 (Act No. 14 of 2005);

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"Constitution" means the Constitution of the Republic of South Africa, 1996;

"Department" means the Department responsible for Economic Affairs in the Province;

"enterprise" means –

- (a) an undertaking or a business concern, whether formal or informal, which is engaged in the production of goods or provision of services; and
- (b) includes an entrepreneur;

"entrepreneur" means a person who starts or operates a business, or both, which includes identifying opportunities in the markets, taking risks with a view of being rewarded with profits;

"market" means a public place, whether opened or enclosed, which has selling sites in the nature of stores or stalls, among others, for the purpose of selling or buying;

"provincial organ of state" means –

- (a) a provincial department as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) a provincial public entity as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999); or
- (c) the Provincial Legislature;

"people with disabilities" has the meaning assigned in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998);

"prescribe" means prescribe by regulation and **"prescribed"** has the same corresponding meaning;

"Province" means the Province of Free State referred to in section 103(1)(b) of the Constitution;

"Provincial Gazette" means the *Provincial Gazette* of the Province of Free State as published by the Government Printer;

"Provincial Legislature" means the Provincial Legislature of the Province of Free State referred to in section 104 of the Constitution;

"Republic" means the Republic of South Africa referred to in section 1 of the Constitution;

"responsible Member" means the Member of the Executive Council responsible for matters related to economic affairs in the Province;

"small enterprise" means a separate and distinct business entity, together with its branches or subsidiaries, if any, including a co-operative enterprise, managed by one owner or more, predominantly carried on in any sector or subsector of the economy mentioned in column 1 and classified as a micro, small or medium enterprise by satisfying the criteria mentioned in columns 3 and 4 of the Schedule to the National Small Enterprise Act, 1999 (Act No. 102 of 1996);

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"small enterprise organisation" means any entity, whether or not incorporated or registered under any law, consisting mainly of persons carrying on small enterprise concerns in any economic sector and established for the purpose of promoting the interests of, or representing, small enterprise concerns, and includes any federation consisting wholly or partly of such association, and any branch of such organisation;

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"this Act" includes any regulation made in terms of or under this Act.

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Guiding principles

2. (1) This Bill seeks to facilitates and promote inclusive economic growth along a transformative paradigm in order to build a cohesive and more equal society which is underpinned by –

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(a) a growing and inclusive economy that harnesses the potential of all citizens and persons with permanent residency status in the Republic;

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(b) diversify the ownership patterns; and

(c) facilitates easier access by new entrants into all sectors of the economy.

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(2) Without derogation from the provisions of subsection (1), Provincial organ of state must be guided by specific transformative principles driving Free State economic interventions, including interventions that –

(a) focus on sectors of the economy with rapid growth potential, especially with regard to employment and exports;

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(b) are driven by an ethos and imperatives of transformation, modernisation and re-industrialisation;

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(c) are structured to include the social protection of vulnerable groups in society through the promotion of access to economic opportunity;

(d) include a bias towards strengthening of the productive capacity of the township and rural economies across all sectors and value chains;

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- (e) promote productive activities and value addition designed to prevent and eradicate fronting practices;
- (f) need to extract –
 - (i) maximum economic development value from planned levels of investment in infrastructure; and 5
 - (ii) maximum value from established and potential capacity of government departments; and 10
- (g) need to be implemented within the context of an effective, solution-oriented monitoring and evaluation system.

Objects of the Bill 15

3. The objects of this Bill are –

- (a) to provide a regulatory framework which makes it possible for Free State citizens to establish viable and thriving business where they live; 20
- (b) to designate business activities within the township areas that are reserved for the exclusive and sole use of citizens;
- (c) to promote the development and diversification of the economy of the Province through regulation of participation of enterprises in specific sectors; 25
- (d) to introduce an enabling framework to ensure retail malls and supermarkets partner with local enterprises, including the sourcing of some of the products and services from local producers, service providers and manufacturers; 30
- (e) to establish specific procurement rules and programmatic support which allow government and its main contactors – 35
 - (i) to buy from a large group or groups of local enterprises, with systems linking them so they can supply if they were one large enterprise; or 40
 - (ii) to compel enterprises that get government contracts to spend a certain percentage of their procurement spent on enterprises or entrepreneurs and cooperatives owned by citizens;

- (f) to provide an enabling environment for municipalities –
- (i) to implement local economic development and to grow supporting value chains and industries;
- (ii) to implement an integrated businesses licencing regime;
- (g) to promote and support the development of representative associations of enterprises owned by citizens and non-profit organisations.

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Application of the Bill

4. This Act applies to every organ of state and, subject to section 19, every municipality within the Province as well as to all businesses.

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Non-derogation from, and conflict with, other law

5. (1) This Act is –
- (a) cumulative; and
 - (b) in addition to; and
 - (c) not in derogation from,
- any other law for the time being in force.
- (2) In the event of a conflict between this Act and any other law in force which regulates township economic development or township-based enterprises in the Province and which is of general application, this Act prevails.

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CHAPTER 2

ECONOMIC ACTIVITIES RESERVED FOR CITIZENS AND PERSONS WITH PERMANENT RESIDENCY STATUS

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Economic activities reserved for citizens

6. (1) Every citizen in the Republic has a right to practice his or her trade, occupation or profession of choice freely in the Province subject to Business Act, 1991 (Act No. 71 of 1991).
- (2) The business activities that are designated in Schedule 1 are exclusively and solely reserved for ownership and operation by a citizen of, or a person who has permanent residency status in, the Republic.

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- (3) To achieve an inclusive economic growth, the Local Municipality shall maintain quotas for ownership of not more than 20% of foreign ownership, or such percentage as the responsible Member may prescribe from time to time by regulations, when issuing business permits to enable black local owners to thrive, in respect of those category of businesses as the responsible Member may prescribe by regulations. 5
- (4) The responsible Member may, after consultation with the Cabinet Ministers responsible for Labour and Employment and for Trade, Industry and Competition, and by notice in the *Provincial Gazette*, amend Schedule 1 of this Act, after taking into consideration or having regard to the following factors: 10
- (a) enhancement of strategic goals of the Province in particular and that of the Republic in general, including – 15
- (i) affirming black people in general and Africans in particular, women, youth and people with disabilities;
- (ii) growing the economy; and 20
- (iii) increasing levels of the province's Gross Domestic Product;
- (b) upstream production of primary resources or industrialisation; 25
- (c) exploitation of readily available and developed expertise in the Republic;
- (d) potential or capacity to absorb – 30
- (i) a large number of people into employment;
- (ii) the supply side of the value chain;
- (e) drive economic transformation and meaningful participation by citizens in big economic mainstream by introducing localization opportunities by requiring that the big retailers must have 30% quota of locally produced goods in their shelves as prescribed; 35
- (f) potential to create a new stream of revenue to broaden the tax base and revenue of municipalities; 40

- (g) increase in levels of investment in groups capital asset formation, including –
 - (i) infrastructure; and
 - (ii) capital equipment;
- (h) any factor that the responsible Member considers important and necessary to achieve the object, principles and provisions of this Act.

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CHAPTER 3

REGULATION OF FREE STATE-BASED ENTERPRISES

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Licensing of enterprises

7. (1) From the date of commencement of this Act –

- (a) every enterprise which is undertaking or carrying on business in any field or category, must do so only in compliance with provisions of the Business Act, 1991 (Act No. 71 of 1991) and as such may not undertake or carry on with business activities without being issued with a prescribed licence or permit from the municipality or designated licencing authority;
- (b) only those businesses that are holders of an appropriate licence prescribed and issued by a licensing authority under relevant legislation, are eligible, on application, for the benefits and incentives provided for in this Act.

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- (2) In this section, "licence" includes a written licence, registration, approval, recognition, permission, consent or any other authorisation granted and issued in accordance with any law for the time being in force.

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Display of licences

- 8. (1) Where a licence is issued in respect of any premises, the licence holder must ensure that such licence is displayed at all times in a prominent position on such premises.
- (2) A licence holder who contravenes the provisions of subsection (1) commits an offence and, on conviction, is liable to a fine or to imprisonment for a period not exceeding six months, or both such fine and imprisonment.

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Information required for tax purposes

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|-----|---|----|
| 9. | Subject to the Income Tax Act, 1962 (Act No. 58 of 1962), a licensing authority must – | 5 |
| (a) | require a licence holder under this Act to provide the authority with his or her physical address of the place where he or she conducts his or her business or trade; and | |
| (b) | when the licence expires or is renewed, forward the information to the Commissioner for the South African Revenue Service. | 10 |

CHAPTER 4

PROMOTION AND DEVELOPMENT OF FREE STATE ENTERPRISES 15

Part I

Role of responsible Member and other organs of state 20

Policies and programme by responsible Member

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| 10. | (1) Within the limits prescribed by law, the responsible Member must – | |
| (a) | formulate, coordinate and implement policies and programmes for promoting and developing township-based enterprises; | 25 |
| (b) | monitor the efficiency and performance of Free State enterprises having regard to the purpose for which they are established; | 30 |
| (c) | establish a data base of facilities and sources of finance, technology, raw materials, machinery, equipment and supplies with a view to promoting accessibility to township-based enterprises; | |
| (d) | provide marketing support services to local enterprises; | 35 |
| (e) | register, collect, research and disseminate information relating to township-based enterprises; | |
| (f) | register, monitor and coordinate activities and programmes of promotional agencies engaged in enterprise development; | 40 |
| (g) | assist in the development and upgrading of appropriate productive technologies for township-based enterprises; | 45 |
| (h) | locate and develop industrial estates and common facilities for use by enterprises; | |

- (i) develop entrepreneurship;
 - (j) arrange for independent training, management and consulting services to township-based enterprises at such fee as determined by the responsible Member. 5
- (2) In giving effect to the provisions of subsection (1) and overall objectives of this Act as well as to ensure inclusion of provincial businesses in policy formulation and implementation, Provincial Business Council and District Business Councils are hereby established at the provincial and district municipality level as recognised structures for coordination and representing various organised businesses in their respective areas of operation. 10
- (3) The responsible Member must issue regulations by notice in a *Provincial Gazette* setting out the composition, membership and incidental administrative matters of the Councils contemplated in subsection (2). 15

Plans and strategies by provincial organs of state

- 11. (1) Subject to the provisions of this Act and other applicable law, every Provincial organ of state must – 20
 - (a) formulate plans and strategies to support the development of both formal and informal enterprises; 25
 - (b) develop and implement programmes and projects in pursuance of the plans and strategies contemplated in paragraph (a), including programmes and projects intended to contribute directly or indirectly to – 30
 - (i) the establishment, development, support and promotion of enterprises; and
 - (ii) the economic prosperity of enterprises; 35
 - (c) plan, direct, manage and implement programmes and projects to improve the business environment in the Province, including programme and projects –
 - (i) to support enterprises, business associations, conferences, studies, consultations, trade shows, demonstration projects and market research; 40
 - (ii) to improve business communication and cooperation; 45
 - (iii) related to the development of business opportunity data banks and networks;

- (d) promote and advance the mainstreaming of youth, women and persons with disabilities in all enterprise programmes and projects;
 - (e) do all such other things as are necessary or incidental to the attainment of the purpose of this Act. 5
- (2) Without derogating from the provisions of subsection (1), the benefits and incentives include those that are mentioned in Part II of this chapter.

Part II 10

Benefits and incentives for small enterprises

Financial assistance

12. Relevant provincial organ of state must, in order to facilitate the flow of financial resources to sector-based enterprises – 15
- (a) either on its own or in cooperation with other small enterprise development agencies, identify enterprises and projects which require financial assistance; 20
 - (b) provide information on sources of finance and promote local investment for sector-based enterprises;
 - (c) assist sector-based enterprises with the preparation of business plans, project proposals and other loan application documents with a view to promoting access to financial resources. 25

Development of shared economic infrastructure

13. Relevant provincial organ of state must take reasonable measures to facilitate the provision of suitable shared economic infrastructure, including worksites, social amenities, business information centres, model centres of excellence, common usage facilities and other facilities, necessary for development of sector township-based enterprises. 30 35

Industrial and commercial estates

14. Relevant provincial organ of state must, on such terms and conditions as may be agreed, assist sector township-based enterprises with the provision of buildings or premises on which township enterprises may undertake designated business activity. 40

Letting of buildings or premises

15. Relevant provincial organ of state may, on such terms and conditions, enter into agreement with any person, institution, organisation or company, let out any building or premises for use by sector-based enterprises as an industrial or commercial estate for a period to be determined by institutional policies. 5

Capacity building programmes

16. Relevant provincial organ of state must, in partnership with the public and private training institutions, as the provincial organ of state may deem necessary – 10
- (a) promote and provide business development services for small, micro, medium enterprises; 15
 - (b) promote technological modernisation and development of small, micro, medium enterprises; and
 - (c) develop and administer certified demand-driven capacity building and entrepreneurship programmes for small, micro, and medium enterprises. 20

Development of markets and provision of marketing services

17. Relevant provincial organ of state must – 25
- (a) establish or identify markets for products generated by small, micro, and medium enterprises; 25
 - (b) provide linkages between small, micro, and medium enterprises enterprises and potential markets; 30
 - (c) organise trade fairs and shows in order to promote products generated by small, micro, medium enterprises;
 - (d) conduct market research, survey and analysis and share findings, conclusions and recommendations thereof with small, micro, medium enterprises; and 35
 - (e) provide all such matters and things as may be necessary for the convenient use by small, micro, and medium enterprises, including payment of stalls, rents, fees and tolls in respect of the use by any sector township-based enterprises at any market. 40

CHAPTER 5

MUNICIPALITIES

Application of this Bill to municipalities within Province 5

18. (1) This Bill applies, with the necessary changes required by regulations to municipalities within the Province.
- (2) In such application, a reference in the Bill to – 10
- (a) every provincial organ of state, must be construed as a reference to –
- (i) a municipal entity as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and 15
- (ii) a municipality as described in section 2(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000). 20

Model Standard By-laws

19. (1) Within six months from the date of commencement of this Bill, a municipality must – 25
- (a) pass by-laws that substantially conform to the matters provided for in Schedule 3; and 30
- (b) in the event the by-laws already exists, revise and if, necessary, amend the by-laws to make them substantially conform to the matters provided for in Schedule 3.
- (2) The provisions of sections 12 and 13 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), apply in respect of the passing of by-laws by a municipality in terms of subsection (1)(a). 35

Municipal Investment and Incentive Policy

20. Each municipality must put in place a Municipality's Investment Incentive Policy which is aimed at promoting investment and boosting the economy of the municipality aligned to the provincial framework on Municipality Investment Incentives framework. 40

CHAPTER 6

GENERAL PROVISION

Regulations	5
21. The responsible Member –	
(a) within six months from the date of commencement of this Act, must make regulations prescribing any matter which in terms of this Act is required or permitted to the prescribed;	10
(b) may issue regulations –	
(i) to provide outstanding opportunities for local economy;	15
(ii) to strengthen the productive capacity of the township economy across all sectors and value chains;	
(iii) in respect of locally produced goods and services;	20
(iv) to archive inclusive economic growth and sustainable employment;	
(v) to enable small enterprises to thrive and grow into profitable enterprises;	25
(c) may, generally, make regulations regarding any matter which may be necessary or expedient to prescribe in order to achieve the objects of this Act.	30
Guidelines	
22. (1) The responsible Member may, determine guidelines regarding –	
(a) categories of township enterprises to be assisted under this Act; and	35
(b) the kind of assistance to be rendered.	
(2) In determining the categories of township enterprises or small enterprise organisations to be assisted, the responsible Member must consider the potential and viability of the enterprise or organisation.	40
Short title and commencement	
23. This Act is called the Free State Integrated Local Economic Development and Transformation Act, 2021, and comes into operation on a date determined by the Premier by proclamation in the <i>Provincial Gazette</i>.	45

SCHEDULE 1

ECONOMIC ACTIVITIES RESERVED FOR CITIZENS AND PEOPLE WITH PERMANENT RESIDENCY STATUS

1. Auctioneer	17. Equipment Hire services
2. Auto electrician	18. Internet Cafes
3. Bars and Nightclubs	19. Laundromat
4. Beauty Salons	20. Motor mechanic
5. Car wash	21. Panel beating
6. Cellphone repair shops	22. Petrol filling station
7. Chesanyama	23. Takeaway food
8. Cleaning services	24. Tuckshops
9. Curio shop (souvenirs and cultural artefacts)	25. Wholesale
10. Courier Services	26. Textile manufacturing
11. Early Childhood Development Centre	27. Brick Manufacturing
12. Fresh produce	28. Manufacturing and production of staple foods
13. Funeral undertaking services	
14. General clothing	
15. General dealer	
16. Hairdresser and personal healthcare	

SCHEDULE 2

MATTERS THAT MUST BE COVERED IN MUNICIPAL BY-LAWS FOR DEVELOPMENTAL REGULATION OF TOWNSHIP BUSINESSES

1. Guidelines for municipalities to regulate business activities within their jurisdictions

The regulation of carrying on of business activities is a function of local government in terms of Local Government: Municipality Systems Act of 2000. This act also enjoins each municipality to promulgate a set of by-laws for different activities, including business, within the municipality.

2. The proliferation of unregulated business activities, especially in townships, has necessitated a need for local authorities to strengthen their regulatory and licensing capacity to prevent chaos that may be created by unregulated developments. In this context, this document seeks to provide guidance to municipalities (as business licensing authorities in terms of the Business Act of 1991) on how to design their business licensing frameworks.

3. Licensing requirements for all businesses

A licensing authority must ensure that an applicant has the following requirements:

- (i) South African Citizenship/Residence;
- (ii) South African Identification Document;
- (iii) Proof of Address;
- (iv) Business Registration with South African Revenue Services (SARS); and
- (v) Registration with Companies and Intellectual Property Commission (CIPC).

4. Licensing processes in terms of Business Act of 1991 (Act No. 71 of 1991) subject to requirements in item 3 of this Schedule

- (1) (a) The responsible Member may by notice in the *Provincial Gazette* designate a local Municipality, or appoint any person or body, as a licensing authority for an area which the Administrator specifies or defines in the notice, to undertake from a date specified in the notice the licensing of businesses in the area concerned.
- (b) A local Municipality may so be designated or appointed for any area, whether in or outside its own area of jurisdiction, but in the province concerned, including the area of jurisdiction of any other local authority or any part of such an area.
- (c) When the responsible person exercises any power under paragraph (a), he or she shall do so with the concurrence of –
 - (i) the local authority, or person or body, designated or appointed as licensing authority;

- (ii) in the case of the designation or appointment of a local authority as licensing authority for an area comprising the area of jurisdiction of another local authority or any part thereof, that other local authority;
 - (iii) in the case of the appointment of a person or body as licensing authority for an area comprising the area of jurisdiction of a local authority or any part thereof, that local authority.
- (2) No person shall, with effect from the date specified in a notice under item (1) in respect of a specific licensing authority, carry on any business in the area of that licensing authority –
 - (a) unless, in the case of a business referred to in item 1 of Schedule 1, he is the holder of a licence issued to him by the licensing authority in respect of the business premises concerned;
 - (b) unless, in the case of a business referred to in item 3 (1) of Schedule 1, he is the holder of a hawker's licence issued to him by the licensing authority;
 - (c) contrary to a condition.
- (3) A licensing authority shall, subject to the provisions of subsection (6), issue a licence which is properly applied for unless –
 - (a) in the case of a business referred to in item 1 (1) or 2 of Schedule 1, the business premises do not comply with a requirement relating to town planning or the safety or health of the public of any law which applies to those premises;
 - (b) in the case of a business referred to in item 2 of Schedule 1, the licensing authority is satisfied that –
 - (i) the applicant, whether or not he is or will be in actual and effective control of the business; or
 - (ii) if another person is or will be so in control, that other person, is not a suitable person to carry on the business, whether by reason of his character, having regard to any conviction recorded against him, his previous conduct or for any other reason;
 - (c) in the case of an application for a hawker's licence, such a licence of which the applicant concerned was the holder, was withdrawn under subsection (9) at any time during the preceding 12 months.
- (4) (a) For the purposes of subsection (3) (a), a licensing authority may ask the South African Police Service for a report stating particulars of all convictions (if any) recorded against an applicant concerned or against any person referred to in subsection (3) (b) (ii).

- (b) For the purposes of such a report any member of the South African Police Service may require the applicant or person concerned to furnish such information and particulars (including any finger-print, palm-print or foot-print) as that member may consider necessary.
- (5) In considering an application for a licence referred to in item 1 or 2 of Schedule 1, a licensing authority may –
 - (a) grant the application on condition that the business premises concerned shall, before the licence is issued, comply with a requirement referred to in subsection (3) (a) stipulated by the licensing authority and made known in writing to the applicant; or
 - (b) issue the licence subject to any condition therein specified in terms of which the licence holder shall in connection with the business premises –
 - (i) comply with a specific requirement contemplated in subsection (4) (a); or
 - (ii) within a specified period comply with such a requirement.
- (6) A licensing authority may, on application by a licence holder, by way of endorsement on the licence –
 - (a) amend a condition;
 - (b) extend the period referred to in subsection (5) (b) (ii);
 - (c) revoke a condition;
 - (d) indicate that a condition specified in the licence has been complied with.
- (7)
 - (a) A licensing authority may at any time, after giving the licence holder concerned a reasonable opportunity to be heard, if it considers it necessary on the ground of changed circumstances in relation to a business or the relevant business premises, by way of endorsement on the licence concerned, amend a condition or impose a condition referred to in subsection (6).
 - (b) For the purposes of paragraph (a), a licensing authority may require a licence holder in writing to produce his licence to the licensing authority.
- (8) A licensing authority may at any time, after giving the licence holder concerned a reasonable opportunity to be heard, withdraw or suspend a licence –
 - (a) on the ground that the business premises do not comply with a requirement contemplated in subsection (5) (a);

- (b) on the ground that the licence holder failed to produce his licence to the licensing authority within 14 days after the receipt of a written request referred to in subsection (7) (b);
- (c) in the case of a business referred to in item 2 of Schedule 1, if the licensing authority is satisfied that, if application had been made at that time for the licence concerned, the application could have been refused by virtue of subsection (5) (b);
- (d) in the case of a business referred to in item 1 (1) or 3 (1) of Schedule 1, on the ground that –
 - (i) any foodstuff sold by the licence holder does not comply with a requirement of a law relating to the health of the public;
 - (ii) any apparatus, equipment, storing space, working surface or any other article or place used for or in connection with the preparation, handling or sale of foodstuffs, does not comply with a requirement of a law relating to the health of the public.
- (9) When a licensing authority decides to refuse an application for a licence, or to grant such an application subject to a condition contemplated in subsection (7) (a), or to issue a licence subject to a condition, or to amend or impose a condition under subsection (8), or to withdraw or suspend a licence, it shall as soon as 25 practicable –
 - (a) notify the applicant or licence holder concerned in writing of its decision;
 - (b) if requested therefore by the applicant or licence holder, furnish him in writing, within the prescribed period, with the reasons for its decision.

5. Environmental Health Certificate

- (1) The Regulations Governing General Hygiene Requirements for Food Premises, Transport of food published under Government Notice No. R. 918 of 30 July 1999 as corrected by Government Notice No. R. 723 of 12 July 2002, provides *inter alia* that no person shall handle food or permit food to be handled unless a valid certificate of acceptability has been issued by the health inspectorate of the local municipality.
- (2) The Regulations Governing General Hygiene Requirements for Food Premises, Transport of food published under Government Notice No. 638 of 22 July 2018 provides *inter alia* in section 10 under *par* 13 that, a person in charge of food premises must ensure that an area in which food is handled is not used for:
 - (a) Sleeping purposes;
 - (b) Washing, cleaning or ironing of clothing or similar laundry;

- (c) Any other purpose or in any manner that may contaminate the food therein of thereon.

6. Checklist for a business permit issuance by municipality

REQUIREMENT	YES/NO	COMMENT
RSA ID (both citizen and resident)		
Proof of address		
CIPC Registration		
SARS Registration		
Proof of Valid Business Bank Account		
Appropriate zoning of business premises		
Certificate of Acceptability		
Zoning		