South Africa

Businesses Act, 1991

Act 71 of 1991

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South Africa

Businesses Act, 1991

Act 71 of 1991

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Assented to on 15 May 1991

There are multiple commencements

Provisions	Status
SectionÂ 1â8	commenced on 24 May 1991. *Note: See section 8*
Unknown provisions	commenced on 1 January 1992 by Proclamation 124 of 1991. *Note: Date of commencement of sections 2(3-11), 3 and 5 in the Province of the Cape of Good Hope*
Unknown provisions	commenced on 1 July 1992 by Proclamation R60 of 1992. *Note: Date of commencement of sections 2(3-11), 3, 5 and 6(5) in the Province of Natal*
Unknown provisions	commenced on 28 August 1992 by Proclamation 95 of 1992. *Note: Date of commencement of section 6(5) in the Province of the Cape of Good Hope*
Unknown provisions	commenced on 1 January 1993 by Proclamation 139 of 1992. *Note: Date of commencement of sections 2(3-11), 3, 5 and 6(5) in the Province of the Orange Free State*
Unknown provisions	commenced on 25 April 1994 by Proclamation 59 of 1994. *Note: Date of commencement of section 2(3)-(11), 3, 5 and 6(5) in the Province of the Transvaal*

[This is the version of this document as it was from 24 May 1991 to 28 December 1993.]

(English text signed by the President.)

[This Act has different dates of commencement for certain provisions regarding different provinces. Date of commencement of: sections 2(3)-(11), 3 and 5 in the Cape of Good Hope - 1 January 1992 (Proclamation 124 in Gazette 13708 of 27 December 1991); section 6(5) in the Cape of Good Hope - 28 August 1992 (Proclamation 95 in Gazette 14238 of 28 August 1992); sections 2(3)-(11), 3, 5 and 6(5) in Natal – 1 July 1992 (Proclamation R60 in Gazette 14060 of 26 June 1992); sections 2(3)-(11), 3, 5 and 6(5) in the Orange Free State – 1 January 1993 (Proclamation 139 in Gazette 14486 of 24 December 1992); and sections 2(3)-(11), 3, 5 and 6(5) in the Transvaal – 25 April 1994 (Proclamation 59 in Gazette 15621 of 31 March 1994)]

ACT

To repeal or amend certain laws regarding the licensing and carrying on of businesses, and shop hours; to make certain new provision regarding such licensing and carrying on of businesses; and to provide for matters connected therewith.

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

1. Definitions

In this Act, unless the context otherwise indicates—

"**Administrator**" means an Administrator as defined in the Provincial Government Act, 1986 (Act No. 69 of 1986);

"**business**", for the purposes of section 2, means any business referred to in Schedule 1, but excluding a business mentioned in Schedule 2;

"**business premises**", in relation to a business referred to in item 1 (1) or 2 of Schedule 1, means the premises upon, in or from which the business is or is to be carried on;

"**carry on business**" includes the opening or keeping open of any premises for such purpose;

"**condition**", in relation to a licence, means a condition imposed under section 2 (6) (b) or 2 (8) (a) and specified in the relevant licence;

"**employee**" means any person employed by or working for any employer and receiving or entitled to receive any remuneration, and any other person whomsoever who in any manner assists in the carrying on or conducting of the business of an employer;

"**employer**" means any person whomsoever who employs or provides work for any person and remunerates or expressly or tacitly undertakes to remunerate him, or who permits any person whomsoever in any manner to assist him in the carrying on or conducting of his business;

"**foodstuff**" means foodstuff as defined in section 1 of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972);

"**hawker's licence**" means a licence to carry on any business referred to in item 3 (1) of Schedule 1;

"**licence**", in relation to a business, means a licence referred to in section 2 (3);

"**licence holder**" means a person who is the holder of a licence;

"**licensing authority**" means any local authority, or person or body, designated or appointed under section 2 as a licensing authority;

"**local authority**" means—

(a) an institution or body referred to in section 84(1)(f) of the Provincial Government Act, 1961 (Act No. 32 of 1961);

(b) a local government body established by virtue of section 30(2)(a) of the Black Administration Act, 1927 (Act No. 38 of 1927);

(c) a local authority as defined in section 1(1) of the Black Local Authorities Act, 1982 (Act No. 102 of 1982);

(d) a Local Development Committee established under section 28A(1) of the Development Act (House of Representatives), 1987 (Act No. 3 of 1987);

(e) a board of management or board as defined in section 1 of the Rural Areas Act (House of Representatives), 1987 (Act No. 9 of 1987);

(f) a local council established under section 2 of the Local Councils Act (House of Assembly), 1987 (Act No, 94 of 1987);

(g) the Local Government Affairs Council established by section 2(1) of the Local Government Affairs Council Act (House of Assembly), 1989 (Act No. 84 of 1989);

"**Minister**" means the Minister of Trade and Industry and Tourism, acting after consultation with every Administrator or with the Administrator concerned, as the case may be;

"**officer**" means—

(a) a traffic officer appointed under section 3 of the Road Traffic Act, 1989 (Act No. 29 of 1989);

(b) a member of the Force as defined in section 1 (1) of the Police Act, 1958 (Act No. 7 of 1958);

(c) a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

"**premises**" includes any land, building, structure, part of a building or of a structure, or any vehicle, conveyance, vessel or aircraft;

"**prescribed**" means prescribed by regulation;

"**public road**" means a public road as defined in section 1 of the Road Traffic Act, 1989;

"**regulation**" means a regulation made by an Administrator under section 6 (1);

"**sell**" includes to prepare, process, store, offer or display for sale;

"**this Act**" includes a regulation.

2. Licensing authorities and licensing of businesses

(1) (a) An Administrator may by notice in the *Official Gazette* designate a local authority, 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 authority 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 an Administrator exercises any power under paragraph (a), he 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) An Administrator may at any time, after consultation with the relevant licensing authority, amend or withdraw a notice under subsection (1) by notice in the *Official Gazette*.

(3) No person shall, with effect from the date specified in a notice under subsection (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 (1) or 2 of Schedule 1, he is the holder of an opposite 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.

(4) 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.

(5) (a) For the purposes of subsection (4)(b), a licensing authority may ask the South African Police for a report stating particulars of all convictions (if any) recorded against an applicant concerned or against any person referred to in subsection (4)(b)(ii).

(b) For the purposes of such a report any member of the South African Police 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.

(6) In considering an application for a licence referred to in item 1(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 (4)(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.

(7) 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 (6)(b)(ii);

(c) revoke a condition;

(d) indicate that a condition specified in the licence has been complied with.

(8) (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).

(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.

(9) 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 (4)(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 (8)(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 (4)(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.

(10) 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 (6)(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 practicable—

(a) notify the applicant or licence holder concerned in writing of its decision;

(b) if requested therefor by the applicant or licence holder, furnish him in writing, within the prescribed period, with the reasons for its decision.

(11) The issue of a licence shall not relieve the licence holder of complying with any law or legal requirement in connection with the business or premises concerned.

3. Appeals

(1) Any person who feels himself aggrieved by a decision of a licensing authority may appeal against the decision in accordance with the provisions of a regulation contemplated in section 6(1)(a)(vi).

(2) If a licensing authority fails to make a decision on any application in terms of this Act within 21 days after the receipt of the application or within such extended period as may be agreed upon between the licensing authority and the applicant concerned, it shall for the purposes of this section be presumed that the application was refused by the licensing authority.

4. Amendment of Schedule 2

(1) The Minister may, whenever he deems it necessary or expedient in the public interest or for the better attainment of the objects of this Act, amend Schedule 2 by notice in the *Gazette*, by altering or adding any item.

(2) Different amendments may be so effected in respect of different areas.

5. Penal provisions

(1) Any person who contravenes a provision of section 2(3) shall be guilty of an offence and liable on conviction—

(a) to a fine not exceeding R1 000 or imprisonment for a period not exceeding three months, or to both such fine and such imprisonment; and

(b) to an additional fine not exceeding R10 for every day on which the offence continues.

(2) (a) When a person in control of a business, or a director, manager, employee or agent, of a licence holder performs any act which it would be an offence under subsection (1), read with section 2(3)(c), for that licence holder to perform himself, the licence holder shall be deemed to have performed the act himself, and shall be liable on conviction to the penalties mentioned in subsection (1), unless he proves to the satisfaction of the court that—

(i) in performing the act the person in control, or the director, manager, employee or agent, was acting without his knowledge or permission;

(ii) all reasonable steps were taken by him to prevent the performance of any act of the kind in question; and

(iii) it was not within the scope of the authority or the course of employment of the person in control, or the director, manager, employee or agent, to perform any act of the kind in question.

(b) The fact that a licence holder issued instructions forbidding any act referred to in subsection (1), shall not by itself be accepted as sufficient proof that he took all steps referred to in paragraph (a)(ii).

(c) When a licence holder is by virtue of the provisions of paragraph (a) liable for anything done by any other person, that other person shall also be liable as if he were the licence holder.

(3) In any prosecution for an offence referred to in subsection (1), an allegation in the charge concerned that—

(a) any goods with which a business was carried on or which were used in connection with a business were or were not of a particular kind, class, type or description;

(b) any place is situate in a particular area;

(c) any person was in control of a business or was a director, manager, employee or agent of a licence holder, shall be presumed to be correct unless the contrary is proved.

(4) A fine imposed or bail entreated in respect of an offence under subsection (1), shall accrue—

(a) where the offence was committed within the area of jurisdiction of a local authority, to that local authority;

(b) in any other case, to the Administrator concerned.

6. Regulations

(1) An Administrator may make regulations for his province regarding—

(a) the attainment of the objects of sections 2 and 3, including, without prejudice to the generality of the aforegoing—

(i) the constitution of anybody appointed as a licensing authority;

(ii) the powers, duties and functions of licensing authorities;

(iii) applications that are required or permitted to be made for the purposes of the said sections;

(iv) the issuing, amendment, suspension, withdrawal and transfer of licences;

(v) the issuing of duplicates of licences;

(vi) appeals in terms of section 3, including the referral of appeals to appeal committees, and the constitution, functions and procedures, and the legal effect of findings, of such committees;

(vii) the liability of any person for reasonable expenses in respect of inspections or the performance of any other act in relation to any matter specified in this paragraph;

(viii) the appointment of inspectors, and their powers, duties and functions;

(ix) the provision of administrative services to licensing authorities;

(x) the delegation or assignment by a licensing authority of its powers or duties;

(xi) any matter which in terms of this Act is required or permitted to be prescribed by regulation;

(b) the restriction, regulation or control of the carrying on of the business of street vendor, pedlar or hawker, including—

(i) provision for the removal and impoundment by an officer of any goods, receptacle, vehicle or movable structure—

(aa) which he reasonably suspects is being used or intended to be used or has been used in or in connection with the carrying on of any relevant business;

(bb) which he finds at a place where—

(A) in terms of a regulation under subparagraph (iv), the carrying on of such business is prohibited; or

(B) in his opinion, it is causing an obstruction to pedestrian or vehicular traffic, or in front of a fire hydrant or an entrance to or exit from a building; and

(cc) which the street vendor, pedlar or hawker concerned has failed or refused to remove from that place after having been requested to do so by the officer, or which has been left there or abandoned;

(ii) the regulation of the liability of any person for any reasonable expenses incurred in connection with such removal and impoundment;

(iii) the regulation of the disposal of any goods, receptacle, vehicle or movable structure so impounded;

(iv) the prohibition of the carrying on of any relevant business—

(aa) on a verge as defined in section 1 of the Road Traffic Act, 1989 (Act No. 29 of 1989), contiguous to—

(A) a building belonging to, or occupied solely by, the State or a local authority;

(B) a church or other place of worship;

(C) a building declared to be a national monument under the National Monuments Act, 1969 (Act No. 28 of 1969),

and identified by the Administrator by notice in the *Official Gazette*;

(bb) on a verge so defined contiguous to a building in which business is being carried on by any person who sells goods of the same or a similar nature as goods being sold by the street vendor, pedlar or hawker concerned, without the consent of that person;

(cc) on that half of a public road contiguous to a building used for residential purposes, if the owner or person in control or any occupier of the building objects thereto;

(dd) in a garden or park commonly used by the public or to which the public has the right of access;

(ee) at any other place commonly used by the public or to which the public has the right of access, or a category of such places, identified by the Administrator by notice in the *Official Gazette*,

but excluding the prohibition of the carrying on of business—

(AA) within a specified distance from any specified place or point;

(BB) at any place for longer than a specified period;

(CC) if the business concerned is not periodically moved from place to place;

(DD) elsewhere than at a specified place or stand;

(c) in connection with any matter contemplated in paragraph (a) or (b), the powers, duties and functions of local authorities in relation to any such matter, including—

(i) except in the case of a matter referred to in paragraph (b)(iv)(aa) or (ee), the power to make by-laws in respect thereof and so to enact, subject to the provisions of this Act, such penal, differential and exempting provisions as may be deemed necessary;

(ii) formal requirements regarding the making, approval and promulgation of such by-laws.

(2) Different regulations may be made in respect of different businesses, areas or local authorities.

(3) A regulation may prescribe penalties not exceeding a fine of R1 000 or imprisonment for a period of three months for any contravention of or failure to comply with its provisions.

(4) (a) The Administrator shall, not less than three months before promulgating a regulation under subsection (1) or a notice under subsection (1)(b)(iv)(aa) or (ee), cause a draft of the regulation or notice to be published in the *Official Gazette*, together with a notice declaring his intention to issue such a regulation or notice, and inviting interested persons to furnish him with comments thereon or representations in connection therewith.

(b) If the Administrator determines upon any alteration of a draft regulation or notice so published, as a result of comments or representations furnished to him in respect thereof, it shall not be necessary to publish the alteration in terms of this subsection before the amended draft is promulgated as a regulation or notice.

(5) The provisions of any law which warrants the seizure of articles, including Chapter 2 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), shall not apply in respect of the seizure of anything—

(a) which is concerned in or suspected to be concerned in the commission of an offence—

(i) in terms of this Act or in terms of a by-law contemplated in subsection (1)(c)(i); and

(ii) relating to the carrying on of the business of street vendor, pedlar or hawker;

(b) which may afford evidence of the commission or suspected commission of such an offence; or

(c) which is intended to be used or is suspected to be intended to be used in the commission of such an offence.

(6) A regulation shall in the province concerned have legal effect as if it were a proclamation issued by the Administrator under section 14(2)(a) of the Provincial Government Act, 1986 (Act No. 69 of 1986).

7. Repeal and amendment of laws

(1) Subject to the provisions of subsections (2), (3), (4) and (5)—

(a) the provisions of any ordinance of a province in relation to an institution or body referred to in section 84(1)(f) of the Provincial Government Act, 1961 (Act No. 32 of 1961), are hereby repealed in so far as they confer a power to make by-laws or regulations prohibiting the carrying on of any business unless a licence, permit, authority, certificate or approval has been issued or granted in respect of the business concerned;

(b) the laws mentioned in Schedule 3 are hereby repealed or amended to the extent indicated in the third column of that Schedule.

(2) The repeal or amendment by subsection (1) of any particular law shall take effect in a province on a date determined by the Administrator by proclamation in the *Official Gazette*.

(3) Different dates may under subsection (2) be so determined in respect of different laws, different provisions of such laws, different areas of jurisdiction of different local authorities, or different defined areas.

(4) An Administrator may in any such proclamation enact such transitional provisions and savings as he may in connection with any particular law or provision thereof, or any regulation or by-law made thereunder, deem necessary.

(5) The amendment of a provision of an ordinance of a province by subsection (1) shall not affect the powers conferred upon the Administrator by section 14(2)(a) of the Provincial Government Act, 1986 (Act No. 69 of 1986), in relation to the amendment, repeal or substitution of that or any other provision of that ordinance.

8. Short title and commencement

(1) This Act shall be called the Businesses Act, 1991.

(2) Subsections (3) up to and including (11) of section 2, and sections 3, 5 and 6(5), shall come into operation in a province on a date fixed by the State President, after consultation with the Administrator, by proclamation in the *Gazette*.

(3) Different dates may under subsection (2) be fixed in respect of different provisions of this Act, different areas of jurisdiction of different local authorities, or different defined areas.

Schedule 1 (Section 2)

Businesses in respect of which a licence is required

Item 1: Sale or supply of meals or perishable foodstuffs

(1) The carrying on of business by the sale or supply to consumers of—

(a) any foodstuff in the form of meals for consumption on or off the business premises; or

(b) any perishable foodstuff.

(2) For the purposes of subitem (1) "perishable foodstuff" means any foodstuff or category of foodstuffs declared by the Minister by notice in the *Gazette* to be a perishable foodstuff for the purposes of this item.

Item 2: Provision of certain types of health facilities or entertainment

The carrying on of business by—

(a) providing turkish baths, saunas or other health baths;

(b) providing massage or infra-red treatment;

(c) making the services of an escort, whether male or female, available to any other person;

(d) keeping three or more mechanical, electronic or electrical contrivances, instruments, apparatus or devices which are designed or used for the purpose of the playing of any game or for the purpose of recreation or amusement, and the operation of which involves the payment of any valuable consideration, either by the insertion of a coin, token coin or disc therein or in an appliance attached thereto or in any other manner;

(e) keeping three or more snooker or billiard tables;

(f) keeping or conducting a night club or discotheque;

(g) keeping or conducting a cinema or theatre.

Item 3: Hawking in meals or perishable foodstuffs

(1) The carrying on of business, whether as principal, employee or agent, by selling any foodstuff in the form of meals or any perishable foodstuff—

(a) which is conveyed from place to place, whether by vehicle or otherwise;

(b) on a public road or at any other place accessible to the public; or

(c) in, on or from a movable structure or stationary vehicle,

unless the business is covered by a licence for a business referred to in item 1 of this Schedule.

(2) For the purposes of subitem (1) "perishable foodstuff" means any foodstuff or category of foodstuffs declared under item 1(2) of this Schedule to be a perishable foodstuff.

Schedule 2

Businesses excluded from businesses referred to in Schedule 1

1. A business which is carried on by the State or a local authority.

2. A business which is carried on by a charitable, religious, educational, cultural or agricultural association, organization or institution of a public nature, if all profits derived from the business are devoted entirely to the purposes of that or any other such association, organization or institution.

3. In the case of a business referred to in item 1(1) of Schedule 1, such a business which is carried on—

(a) by a social, sports or recreation club which is a non-proprietary club and restricts the business to the sale or supply to its members and their guests of foodstuffs for consumption on or in the business premises;

(b) by or on behalf of an employer for an employee as such of the employer.

4. A business referred to in item 1(1)(a) of Schedule 1, if the meals concerned are prepared and sold in a private dwelling.

5. In the case of a business referred to in item 1(1)(b) of Schedule 1, the sale of a perishable foodstuff referred to in that item, by a person who belongs to a category of persons which the Minister, in the relevant notice under item 1(2) of that Schedule, has exempted from the provisions of section 2 (3) of this Act, read with the said item 1(1)(b), in relation to the perishable foodstuff concerned.

Schedule 3

Laws repealed or amended (section 7)

No. and year	Title	Extent of repeal or amendment
Cape of Good Hope		
Ordinance No. 16 of 1976	Shop Hours Ordinance, 1976	1. The amendment of section 1— (a) by the insertion after the definition of "council" of the following definition: "'hawker' means any person who, whether as principal, employee or agent, carries on business by selling goods— (a) which he conveys from place to place, whether by vehicle or otherwise; (b) on a public road as defined in section 1 of the Road Traffic Act, 1989 (Act No. 29 of 1989), or at any other place accessible

to the public; or

(c) in, on or from a movable structure or stationary vehicle;";

(b) by the deletion of the definition of "Licences Ordinance";

(c) by the deletion of the definition of "public holiday";

(d) by the substitution for paragraphs (a) and (b) of the definition of "shop" of the following paragraphs, respectively:

"(a) "an auctioneer or a barber or hairdresser trades; and

(b) a person engages in the sale or supply of goods manufactured or produced by himself;"; and

(e) by the deletion of the definition of "weekday".

2. The amendment of section 4—

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

"(a) on a Sunday or religious public holiday;";

(b) by the deletion of paragraphs (b), (c), (d) and (e) of subsection (1); and

(c) by the substitution for subsection (2) of the following subsection:

"(2) The provisions of subsection (1) shall not apply to **[the holder of a licence contemplated by item 32 of the First Schedule to the Licences Ordinance]** a hawker: Provided

that no **[such holder]** hawker and no employee or agent of **[such holder]** a hawker shall trade in any goods other than the goods mentioned in Schedule 1, whether in a shop or otherwise, **[(a)]** on a Sunday or religious public holiday **[or (b) earlier than six o'clock in the forenoon or later than nine o'clock in**

the afternoon on any weekday].".

3. The repeal of sections 5 and 6.

4. The substitution for section 7 of the following section:

"7. Exemption from prohibition of trade on certain religious public holidays

(1) A council may, on application by any shopkeeper trading in a shop situated at a place which in the opinion of such council is a public resort, place of rest, seaside resort, caravan

park, holiday centre, holiday camp or picnic place, exempt such shopkeeper in respect of any year **[(a)]** from the provisions of section 4(1)(a) in relation to trade in such shop on religious public holidays in such year **[under any licence issued to such shopkeeper in terms of the Licences Ordinance, or (b) from any determination in**

terms of section 8(1)(a) which applies to such shopkeeper].

(2) An applicant for exemption under subsection (1) shall furnish the council with the grounds for his application, full particulars in respect of the class of goods in which he normally trades and such further information as the council may require.

(3) No application under subsection (1) shall

be granted unless the council is satisfied that at the place where the shop is situated there is a reasonable need for the supply to the public **[in the case of an application (a) under subsection (1) (a), on public holidays other than]** on religious public holidays, of goods **[which may be sold under the licence concerned,**

and
(b) under subsection (1) (b), at times to which the relevant determination relates, of goods] in which the applicant normally trades.

(4) **[There shall be payable to the council concerned in respect of every exemption in terms of —**

(a) **subsection (1) (a), an amount equal to fifty per cent of the licence fee payable in terms**

of the Licences Ordinance in respect of every licence to which such exemption relates, and

(b) **subsection (1) (b), an amount of ten rands.**

(5) **The council shall cause every exemption granted in terms of subsection (1) (a) and the amount paid in respect thereof in terms of subsection (4) (a) to be endorsed on every licence to**

which such exemption relates.]

(6) If a council refuses any application in terms of subsection (1), the applicant may in the manner and within the period prescribed by regulation appeal to the Administrator against the decision of the council".

5. The repeal of sections 8, 9 and 10.

6. The amendment of section 11—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"**[Subject to the provisions of subsection (3)]** The provisions of section 4(1) shall not apply

in respect of trading —";

(b) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) in a shop **[under a licence contemplated by item 11, 29 or 59 of the First Schedule to the Licences Ordinance]** by a cafe or restaurant keeper in relation to the sale or supply of meals or refreshments for consumption on or off the business premises;";

(c) by the insertion after paragraph (b) of subsection (1) of the following paragraph:

"(bA) by a funeral undertaker;";

(d) by the substitution for paragraph (eA) of subsection (1) of the following paragraph:

"(eA) by **[the holder of a licence contemplated by item 31 of the First Schedule to the Licences Ordinance]** a general dealer in a shop solely in relation to orders placed by, on behalf of or for the account

		of the owner of a seagoing vessel for delivery to such vessel;"; (e) by the deletion of subsection (3); and (f) by the deletion of subsection (5). 7. The amendment of section 13 by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: "A council may on application by any **[holder of a licence contemplated by item 40 of the First Schedule to the Licences Ordinance]** person register such **[holder]** person for the purpose of this section if it is satisfied that the applicant—". 8. The repeal of section 14. 9. The amendment of section 20 by the deletion of subsections (2), (4) and (5).
Ordinance No. 17 of 1981	Licences Ordinance, 1981	The repeal of the whole.
Ordinance No. 12 of 1985	Licences Amendment Ordinance, 1985	The repeal of the whole.
Ordinance No. 19 of 1986	Licences Amendment Ordinance, 1986	The repeal of the whole.
Natal		

Act No. 24 of 1878	Law to provide for the better Observance of the Lord's Day, commonly called Sunday	The repeal of the whole.
Ordinance No. 11 of 1973	Licences and Business Hours Ordinance, 1973	1. The amendment of section 1 by the deletion of all the definitions, except the definitions of "Administrator", "business hours", "closed", "closed hours and open hours", "goods" and "shop". 2. The repeal of Chapters II to V inclusive. 3. The amendment of section 30— (a) by the substitution for the words preceding paragraph (a) of the following words: "The provisions of this Chapter shall not apply to—"; and (b) by the deletion of paragraph (l). 4. The amendment of section 31 by the substitution for subsection (1) of the following subsection: "(1) The Administrator may, if he considers it desirable in the public interest, by notice in the *Official Gazette* exempt any shop or any category

		of shops from any or all of the provisions of this Chapter, either generally or in relation to the selling or supplying of such goods as may be specified in the notice.”.
		5. The repeal of section 33.
		6. The amendment of section 34 by the substitution for subsection (1) of the following subsection: "(1) Subject to **[(a)]** any designation in terms of section 32, **[and (b) anything to the contrary in Schedule I contained]** all shops shall be closed on

Christmas Day, Good Friday, Easter Sunday, Ascension Day and the Day of the Vow.".

7. The repeal of sections 36, 37 and 38.

8. The amendment of section 39—

   (a) by the deletion of subsection (2);

   (b) by the deletion in subsection (3) of the words "or the proceeds of the sale of any such goods in terms of section 38(2)"; and

   (c) by the deletion of subsection (6).

9. The repeal of sections 40 and 41.

10. The amendment of section 42 by the deletion of subsections (2), (3) and (4).

11. The repeal of sections 43, 44 and 45.

12. The amendment of section 46 by the deletion of subsections (1) and (3).

13. The amendment of section 48 by the deletion of subsections (1) and (2).

14. The repeal of sections 49 and 50.

15. The amendment of section 52 by the deletion of the words "Licences and".

16. The repeal of Schedule I.

		17. The amendment of the long title by the deletion of the words "To provide for a new system for the licensing of businesses and occupations;".
Ordinance No. 22 of 1985	Statutory Bodies (Periods of Office) Ordinance, 1985	The repeal of section 8.
Orange Free State		
Ordinance No. 19 of 1952	Shop Hours Ordinance, 1952	1. The amendment of section 1— (a) by the substitution for the definition of "hawker" of the following definition: "'hawker' means a person who , whether as principal, employee or agent, carries on **[the]** business **[of a hawker in the manner contemplated in paragraph 2 of item 41 of Schedule 1 to the Licences Ordinance, 1972 (Ordinance No. 8 of 1972)]** by selling goods— (a) which he conveys from place to place, whether by vehicle or otherwise; (b) on a public road as defined in section 1 of the Road Traffic Act, 1989 (Act No. 29 of 1989), or at any other place

		accessible to the public; or (c) in, on or from a movable structure or stationary vehicle;"; (b) by the deletion of the definition of "licence"; and (c) by the substitution for the definition of "normal trading times" of the following definition: "normal trading times' means **[the period between the hours of 05h00 and 23h00]** any time on a business day;". 2. The repeal of section 4. 3. The substitution for the first schedule of the schedule set out in the annexure to this Schedule.
Ordinance No. 8 of 1972	Licences Ordinance, 1972	The repeal of the whole.
Ordinance No. 14 of 1974	Licences Amendment Ordinance, 1974	The repeal of the whole.
Ordinance No. 7 of 1977	Licences Amendment Ordinance, 1977	The repeal of the whole.
Ordinance No. 5 of 1981	Licences Amendment Ordinance, 1981	The repeal of the whole.
Ordinance No. 8 of 1984	Licences Amendment Ordinance, 1984	The repeal of the whole.
Ordinance No. 14 of 1986	Licences Amendment Ordinance, 1986	The repeal of the whole.
Transvaal		
Ordinance No. 19 of 1974	Licences Ordinance, 1974	The repeal of the whole.

Ordinance No. 17 of 1979	Licences Amendment Ordinance, 1979	The repeal of the whole.
Ordinance No. 10 of 1980	Licences Amendment Ordinance, 1980	The repeal of the whole.
Ordinance No. 5 of 1982	Licences Amendment Ordinance, 1982	The repeal of the whole.
Ordinance No. 12 of 1985	Licences Amendment Ordinance, 1985	The repeal of the whole.
Ordinance No. 8 of 1986	Shops Hours Ordinance, 1986	1. The amendment of section 1— (a) by the deletion of the definition of "auctioneer"; (b) by the substitution for the definition of "hawker" of the following definition: "'hawker' means any person who **[is the holder of a hawker's licence in terms of item 41 of Schedule I to the Licences Ordinance, 1974, or who is required in terms of that item to have such a licence or who, were it not for the exemptions contemplated in paragraphs (A), (B), (C) and (D) of that item, would have been required to have such a licence]**, whether as principal, employee or agent, carries on business by selling goods— (a) which he conveys from place to place whether by

vehicle or otherwise;

(b) on a public road as defined in section 1 of the Road Traffic Act, 1989 (Act No. 29 of 1989), or at any other place accessible to the public; or

(c) in, on or from a movable structure or stationary vehicle,

and 'hawk' means to carry on business as a hawker;";

(c) by the substitution for the definition of "normal trading times" of the following definition:

"'normal trading times' means **[the period between the hours of 05h00 and 23h30 on]** any other weekday and any other Saturday than Good Friday, Ascension Day, Day of the Vow or Christmas Day;" and

(d) by the deletion of the definition of "public holiday".

2. The amendment of section 6—

(a) by the deletion of paragraph (b) of subsection (1);

(b) by the substitution in subsection (1) for the words following paragraph (b) of the following words:

"sell or supply any goods referred to in Schedule III to this Ordinance and any other goods, excluding toilet requisites and other photographic apparatus than films, in which he **[may trade by virtue of a pharmacist licence issued in terms of item 4 of Schedule I to the Licences Ordinance, 1974]** normally trades.";

(c) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"**[The holder of a motor**

garage licence, issued in terms of item 28 of Schedule I to the Licences Ordinance, 1974] A person who carries on business in, on or from a motor garage by repairing, renovating, servicing or dismantling motor vehicles or spares thereof, or any employee of such a **[licence holder]** person, may at any time—";

(d) by the deletion of paragraph (b) of subsection (2); and

(e) by the deletion of subsection (4).

3. The amendment of section 7 by the deletion of subsections (2), (3) and (4).

4. The repeal of section 8.

5. The amendment of section 9—

(a) by the deletion in subsection (1) of the words "or is authorized to trade after the closing hour in terms of section 7(2)";

(b) by the deletion in subsection (2) of the

words “or, where applicable, outside the normal trading times as restricted in terms of section 8”; and

(c) by the deletion of subsection (3).

6. The amendment of section 11—

(a) by the substitution for paragraph (c) of subsection (1) of the following paragraph:

"(c) keeps open or opens a shop contrary to the proviso to section 7 (1) **[or trades otherwise than in accordance with the authorization granted in terms of section 7 (2) or a condition, excluding the payment of any charges, imposed**

		thereunder];”; and (b) by the deletion of paragraph (d) of subsection (1). 7. The amendment of section 14 by the deletion of paragraph (e) of subsection (1). 8. The amendment of Schedule I by the deletion in item 9 of the following words: "whether or not a licence is required in terms of item 12 of Schedule I to the Licences Ordinance 1974, for the sale thereof". 9. The amendment of Schedule II by the deletion in column 1 of item 3 of the following words: "whether or not a licence is required in terms of item 12 of Schedule I to the Licences Ordinance 1974, for the sale thereof”.
Republic		
Act No. 8 of 1917	Lord’s Day Act (Natal) Amendment Act, 1917	The repeal of the whole.
Act No. 38 of 1927	Black Administration Act, 1927	The amendment of section 30 by the deletion of paragraph (o) of subsection (2).

Act No. 101 of 1965	Medicines and Related Substances Control Act, 1965	1. The amendment of section 22A— (a) by the substitution for subsection (1) of the following subsection: "(1) Subject to the provisions of this section, no person shall sell any medicine or Scheduled substance **[unless he is the holder of a licence issued in terms of an ordinance of a provincial council or the territory on]** except in accordance with the prescribed conditions **[or he is**

employed by the holder of any such licence: Provided that nothing in this subsection contained shall be construed as requiring a medical practitioner, dentist, pharmacist or veterinarian to hold any such licence to sell any medicine or Scheduled substance in the course of lawfully carrying on his professional activities].";

(b) by the deletion of subsection (2); and

(c) by the substitution in subsection (3) for the words preceding

the proviso of the following words:

"Any Schedule 1 substance, not being any such substance prescribed for the purposes of this subsection, shall not be sold by **[the holder of a licence referred to in subsection (1)]** any person other than a medical practitioner, dentist, pharmacist or veterinarian:".

2. The amendment of section 35—

(a) by the deletion of paragraph (xiii) of subsection (1); and

(b) by the substitution for paragraph (xvi) of subsection (1) of the following paragraph:

"(xvi) prescribing the conditions on which Schedule 1 substances or certain specified Schedule 1

		substances may be sold **[by a person other than a medical practitioner, dentist, veterinarian or pharmacist]** under **[a licence referred to in]** section 22A(1);".
Act No. 65 of 1976	Financial Relations Act, 1976	1. The repeal of section 12. 2. The amendment of Schedule 1 by the deletion of paragraph 7. 3. The amendment of Schedule 2 by the substitution for paragraph 8 of the following paragraph: "8. The regulation of the hours of opening and closing of shops on a Sunday or on any public holiday mentioned in the Second

		Schedule to the Public Holidays Act, 1952 (Act No. 5 of 1952).".
Act No. 102 of 1982	Black Local Authorities Act, 1982	1. The amendment of section 56 by the deletion of paragraph (oA) of subsection (1). 2. The amendment of the Schedule by the deletion in item 14 of the words "street trading and purveying and".
Act No. 9 of 1987	Rural Areas Act (House of Representatives), 1987	1. The amendment of section 26 by the deletion of paragraph (m). 2. The amendment of section 27— (a) by the deletion in paragraph 14 of the words "for regulating the sale, preparation, manufacture, storing, keeping, conveying, handling and exposure for sale of food,"; (b) by the deletion of paragraphs (15) and (16); (c) by the substitution for paragraph (26) of the following paragraph: "(26) for **[regulating fish markets and]** appointing and

		regulating places to be used for the landing, gutting, curing and packing of fish, and for regulating the removal of refuse from such **[markets and]** places and from fish markets;"; and (d) by the deletion of paragraph (59). 3. The repeal of section 39.
Act No. 29 of 1989	Road Traffic Act, 1989	1. The amendment of section 98 by the insertion after subsection (1) of the following subsection: (1A) The provisions of subsection (1)(e) shall not apply to any vehicle, other than a motor

vehicle, while it is being used in carrying on the business of street vendor, pedlar or hawker, unless it exceeds such maximum weight, height, length or mass as may be prescribed.".

2. The substitution for section 116 of the following section:

"116. Trading on public roads

Except —

(a) on or in premises **[licensed]** zoned or demarcated for that purpose by a competent authority

in terms of any law; or

(b) in such circumstances and in accordance with such requirements as may be prescribed, or determined by by-law,

no person shall sell, display, offer for sale or deliver pursuant to a sale, any goods —

[(a)](i) on or alongside a public road inside an urban area, within 180 metres of

a railway level crossing or any road traffic sign denoting a blind corner or rise thereon or within **[10]** five metres from any intersection thereon; or

[(b)](ii) on or alongside any public road outside an urban area:

Provided that where a provincial administration is responsible for the maintenance of a public road inside an urban area, the competent

authority of such urban area shall not **[license]** so zone or demarcate premises in such urban area situated alongside such a road, without the prior approval of the Administrator concerned.".

3. The amendment of section 133—

(a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) subject to the provisions of the Businesses Act, 1991, and any regulation or by-law made thereunder in relation to the restriction,

regulation or control of the carrying on of the business of street vendor, pedlar or hawker, the stopping with and parking of any vehicle on any public road or portion thereof, including by-laws relating to the installation, regulation, supervision, maintenance and control of parking meters and parking places;"; and

(b) by the substitution for paragraph (e) of

		subsection (1) of the following paragraph: "(e) subject to the provisions of the Businesses Act, 1991, and any regulation or by-law made thereunder in relation to the restriction, regulation or control of the carrying on of the business of street vendor, pedlar or hawker, any public road which is not to be used by any vehicle, either generally or

		at specific times;";.
Proclamation No. 208 of 1989	Removal of certain licensing and shop hours restrictions on economic activities	The repeal of the whole.

Annexure

(Substitution of First Schedule to Ordinance 19 of 1952, OFS)

" First Schedule

Class of shop	Business which may be carried on and goods which may be sold	Days and hours
Chemist shop.	To supply medicines, surgical requirements and infants' and invalids' foods and requirements and to sell toilet requisites.	At any time on any day.
Bakery.	To sell the goods **[authorized by the licence to carry on the business of a baker]** in which the shop normally trades.	**[On business days: Up to any hour]** On Sundays, Good Friday, Ascension Day, Day of the **[Covenant]** Vow and Christmas Day From six to nine o'clock in the forenoon.
Fish-shop.	To sell fresh fish.	**[On business days: Up to any hour]** On Sundays, Good Friday, Ascension Day, Day of the **[Covenant]** Vow and Christmas Day: From six to nine o'clock in the forenoon.
Butchery.	To **[supply]** sell fresh meat (including poultry meat).	**[On business days: Up to any hour]** On Good Friday, Ascension Day, Day of the **[Covenant]** Vow and Christmas Day: From six to nine o'clock in the forenoon.
Fruit and vegetable shop.	To sell fresh fruit and vegetables and flowers and plants.	On any day except Sunday: Up to any hour.

Cafe, restaurant or eatinghouse.	To supply meals and refreshments and to sell the goods **[authorized by the licence to carry on the business of a cafe keeper, restaurant keeper or an eatinghouse keeper or]** declared to be privileged goods by the Administrator by notice in the *Official Gazette*.	At any time on any day.
General dealer's shop.	To sell petrol or oil which is urgently required.	At any time on any day.
General dealer's shop restricted to sell only **[the goods which a licensed fresh produce dealer, as contemplated in Item 10 of Part 1 of the Second Schedule to the Licences Act, 1962 (Act No. 44 of 1962), could sell in terms of the said Act]** fruit, nuts, vegetables, flowers, plants, tobacco, cigars, cigarettes, matches, egos, poultry, fresh fish, honey, bread, biscuits, cakes, pastry, confectionery, sweets or dairy produce.	To sell the goods **[authorized by the licence to carry on such business]** mentioned in the first column.	On any day except a Sunday: Up to any hour.
Milk depot, dairyshop or shop used in connection with the business of a dairy farm.	To sell fresh milk	At any time on any day.
[Art gallery]	**[To sell original** (i) **paintings and other graphic**	**[On a business day: Up to any hour.]**

		works of art;	
	(ii)	**sculptures, whether proper or in relief; and**	
	(iii)	**hand made mosaic work.]**	