


30/5/18

BUSINESS LICENCE (AMENDMENT) BILL, 2018

Arrangement of Sections

Section

1.	Short title and commencement.....	2
2.	Amendment of section 2 of the principal Act.....	2
3.	Amendment of section 3 of the principal Act.....	3
4.	Insertion of new section 4A into the principal Act.....	3
5.	Insertion of new section 6A into the principal Act.....	3
6.	Amendment of section 30 of the principal Act.....	4
7.	Insertion of new sections 33A and 33B into the principal Act.....	4
8.	Amendment of section 36 of the principal Act.....	6
9.	Amendment of the First Schedule to the principal Act.....	6



BUSINESS LICENCE (AMENDMENT) BILL, 2018

A BILL FOR AN ACT TO AMEND THE BUSINESS LICENCE ACT

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act, which amends the Business Licence Act, 2010 (No. 25 of 2010), may be cited as the Business Licence (Amendment) Act, 2018.
- (2) This Act shall come into force on the 1st day of July, 2018.

2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended —

- (a) in the definition of “foreign person”, by the deletion of paragraph (i) and the substitution of the following —
 - “(i) a person who is not —
 - (a) a citizen of The Bahamas; or
 - (b) a permanent resident with a right to work in The Bahamas;”;
- (b) by the insertion, in the appropriate alphabetical order, of the following new definition —

““contract officer” has the meaning ascribed to it in section 2 of the Public Service Act (Ch. 39);

“regulator” means the body responsible by law for granting a licence or approval under any other law to a regulated business.”.

3. Amendment of section 3 of the principal Act.

Section 3 of the principal Act is amended —

- (a) by the deletion of subsections (3) and (3A) and the substitution of the following —
 - “(3) Every licensee who carries on a business in any year shall have his licence renewed where the licensee submits to the Secretary —
 - (a) his financial results, as prescribed, on or before the 31st day of January of the succeeding year;
 - (b) payment, by the 31st day of March, of the business licence tax, where applicable, for the succeeding, except that, this subsection shall not apply to a licensee who submitted a notification of the inactivation or cessation of the business before the commencement of the succeeding year.”;
- (b) in subsection (7), by the deletion of the words “Where an application is made” and the substitution of the words “Where a new application is made”.

4. Insertion of new section 4A into the principal Act.

The principal Act is amended by the insertion, immediately after section 4, of the following —

“4A. Approval of business licence renewal.

Where an applicant is compliant under section 4(6), the renewal of a licence will not be granted, except where —

- (a) in respect of a regulated business, the regulator and the National Insurance Board advises the Secretary that the applicant is compliant with the law regulating the business;
- (b) in respect of a business other than a regulated business, the National Insurance Board advises the Secretary that the business is compliant with their obligations under the National Insurance Act (Ch. 350).”.

5. Insertion of new section 6A into the principal Act.

The principal Act is amended by the insertion, immediately after section 6, of a new section 6A as follows —

“6A. Provisional licence.

- (1) This section applies to a Bahamian applicant who has submitted a new application in respect of a business specified by the Minister under subsection (4).
- (2) A person may, in accordance with the relevant provisions of section 3, apply to the Secretary for a provisional licence to undertake activities related to the operation of the proposed business.
- (3) A provisional licence issued under this section is valid for ninety days.
- (4) The Minister shall by order published in the Gazette, which shall be placed on the official website of the agency responsible for administering this Act, specify the categories of businesses that are eligible to apply for a provisional licence.”.

6. Amendment of section 30 of the principal Act.

Subsection (1) of section 30 of the principal Act is amended by the deletion of paragraph (d) and the substitution of the following—

- “(d) prescribing the form and method of submission, including by electronic means, of orders, notices, applications and other documents to be used under this Act;”

7. Insertion of new sections 33A and 33B into the principal Act.

The principal Act is amended by the insertion, immediately after section 33, of the following new sections —

“33A. Sharing of information.

- (1) Notwithstanding section 33, the Secretary may disclose or authorise disclosure of, documents or information under this Act —
 - (a) to any person, where such disclosure is necessary for the purposes of —
 - (i) the administration and enforcement of this Act;
 - (ii) assisting a Government entity in the administration and enforcement of any other fiscal laws;
 - (b) to a person authorised by any law in force in The Bahamas to receive such information;
 - (c) where such documents or information do not identify a specific person, to a person in the service of the

Government in a revenue or statistical department in respect of which such disclosure is necessary for the performance of such person's official duties.

- (2) The Secretary may disclose, or authorise disclosure of, documents or information concerning the affairs of a person in relation to business licence where —
 - (a) the person consents in writing that such disclosure may be made to another specified person; or
 - (b) a person claims to be the taxpayer or the authorised representative of such taxpayer and the Secretary has obtained reasonable assurance of the authenticity of the claim.
- (3) The Secretary may, where he determines it to be necessary or convenient for the exercise of the Secretary's powers under subsection (2) —
 - (a) enter into a memorandum of understanding with any Government entity, or the competent authority of the government of another country, setting out the terms and conditions to which any disclosure by the Secretary of documents or information is subject; and
 - (b) disclose documents or information obtained by the Comptroller in the exercise and performance of the Comptroller's duties and powers under this Act only in accordance with the memorandum of understanding referred to in paragraph (a).
- (4) A person receiving documents or information under subsection (2) must keep such documents or information secret and confidential, except to the minimum extent necessary to achieve the purpose for which the disclosure is made.

33B. Power to require information.

Notwithstanding the provisions of the Data Protection (Privacy of Information) Act (Ch. 324A), —

- (a) the Secretary may in writing, require a person or regulator to furnish him, in writing, within such time as the Secretary may specify, information in relation to matters that are necessary or expedient for the performance by the Secretary of his functions;
- (b) a person or regulator receiving a request from the Secretary must provide the information contained in the request.”

8. Amendment of section 36 of the principal Act.

Section 36 of the principal Act is amended by the insertion, immediately after paragraph (a), of the following —

“(aa) by registered schools under the Education Act (Ch. 46).”.

9. Amendment of the First Schedule to the principal Act.

Part I of the First Schedule to the principal Act is amended by the insertion of a new item (6A) as follows —

“(6A) A business licence tax of 0.75% shall apply to a hotel licensed under the Hotels Encouragement Act (*Ch. 289*) where that hotel has ten rooms or more.”.

OBJECTS AND REASONS

This Bill seeks to amend the Business Licence Act, 2010 (*No. 25 of 2010*).

Clause 2 of the Bill seeks to clarify the definitions of “foreign person” and “contract officer”, respectively.

Clause 3 of the Bill seeks to amend section 3 of the Business Licence Act to clarify the requirements for renewal of a business licence. It provides that persons seeking to renew a business licence must submit to the Secretary —

(a) his financial results, as prescribed, on or before the 31st day of January of the succeeding year; and

(b) payment, by the 31st day of March, of the business licence tax for the succeeding.

However, this does not apply to a licensee who submitted a notification of the inactivation or cessation of the business before the commencement of the succeeding year. Additionally, where a new application is made in respect of a regulated business, the application has to be accompanied by a grant of approval in writing made under any other law regulating that business.

Clause 4 of the Bill seeks to provide for a new section 4A, which provides that where an applicant is compliant under section 4(6), the renewal of a licence will not be granted, except where —

(a) in respect of a regulated business, the regulator and the National Insurance Board advises the Secretary that the applicant is compliant with the law regulating the business;

(b) in respect of a business other than a regulated business, the National Insurance Board advises the Secretary that the business is compliant with their obligations under the National Insurance Act (*Ch. 350*).

Clause 5 of the Bill provides for the insertion of a new section 6A in the Business Licence Act, which shall provide for provisional licences. This section is intended to apply to a non-foreign applicant who has submitted a new application in respect of a business specified by the Minister under the section. This section also provides that a person may, in accordance with the relevant provisions of section 3, apply to the Secretary for a provisional licence to undertake activities related to the operation of the proposed business and such a licence issued is valid for ninety days. Additionally, this section will provide for the Minister to, by order specify the categories of businesses that are eligible to apply for a provisional licence. Such order is to be published in the Gazette, which shall be placed on the official website of the agency responsible for administering this Act.

Clause 6 of the Bill seeks to empower the Minister to for prescribe forms and submit them by electronic means.

Clause 7 of the Bill introduces two new sections 33A and 33B. The new section 33A seeks to empower the Secretary to disclose information necessary for the administration and enforcement of the Business Licence Act. Additionally the clause seeks to provide that where the Secretary determines it is necessary for the exercise of his powers, enter into a memorandum of understanding with any Government entity in relation to information obtained.

The new section 33B seeks to empower the Secretary to require a person or regulator to provide information in relation to matters that are necessary for the performance of his functions.

Clause 8 of the Bill seeks to provide that educational institutions which receive a government subvention will be exempt from paying business licence tax.

Clause 9 of the Bill seeks to amend Part I of the First Schedule of the Business Licence Act by inserting a new paragraph 6A to provide that a business licence tax of 0.75% will apply to a hotel which has ten rooms or more.

