

**PART 8—TRADING ON STREETS AND LOCAL GOVERNMENT PROPERTY**

*Division 2 – Street Trading and Trading in other Public Places*

**8.14 Interpretation**

(1) In this Division unless the context otherwise requires—

**community association** means an institution, association, club, society or body, whether incorporated or not, the object of which is of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and the members of which are not entitled or permitted to receive any pecuniary profit from the transactions thereof;

**licence** means a licence issued by the local government under clause 8.19;

**licensee** means a person to whom a licence is granted under this Division;

**public event** includes a market, festival, fair, parade or other similar event conducted on a street or public reserve with specific approval of the local government;

**public reserve** includes park lands, squares, reserves, beaches, and other lands, included in or adjoining a district, and set apart for the use and enjoyment of the inhabitants of the district and includes parks and other lands acquired for the public purposes, and vested in or under the care, control, or management of the local government of the district;

**trading** means selling or hiring of goods, wares, merchandise or services or offering goods, wares, merchandise or services for sale in a street or other public place and includes displaying them for sale, inviting offers for sale, soliciting orders or carrying out any other transaction therein.

**8.15 Application of Division**

This Division shall not apply to the conducting of street entertainment, trading by a community association or trading at a public event.

**8.16 Licence requirements**

No person shall carry on trading in any street footpath or public reserve within the District unless that person is acting within the specifications of a current licence issued under this Division and for which all fees and charges have been paid.

**8.17 Application for licence**

(1) An application for any licence under this Division shall be in the form determined by the local government from time to time and shall include the following –

- (a) include the full name and address of the applicant;
- (b) specify the proposed number and the names and addresses of assistants to be engaged by the applicant in trading pursuant to the licence;
- (c) specify the location for which the licence is sought; be accompanied by an accurate plan and description of any proposed stand, table, structure or vehicle which may be used for trading;
- (d) specify the proposed days and hours of trading;
- (e) specify the proposed goods, wares, merchandise or services in respect of which trading will be carried on.

**8.18 Refusal of licence**

(1) The local government or an authorised person may refuse to issue a licence if –

- (a) the applicant has committed a breach of clause 8.16, 8.21, 8.22 or 8.23 and the local government determines that the licence should be refused;
- (b) the proposed activity or place of trading is in the opinion of the local government undesirable;
- (c) the proposed stand, table, structure or vehicle for which the licence is sought is in the opinion of the local government unsuitable in any respect to the location; or
- (d) the applicant is in the opinion of the local government an unsuitable person.

### **8.19 Conditions of licence**

- (1) The local government or an authorised person may issue a licence and may specify conditions which relate to that licence –
  - (a) defining the expiry date of the licence;
  - (b) defining the specific place to which the licence applies or limiting the trading area to not less the 300 metres from an established outlet selling similar goods;
  - (c) defining the number, type, form and construction as the case may be of any stand, table, structure or vehicle which may be used for trading;
  - (d) defining the particulars of the goods, wares, merchandise or services in respect of which trading may be carried on;
  - (e) defining the days and hours when trading may be carried on;
  - (f) requiring the licensee to maintain 3rd party liability or any other necessary insurance at all times to a value determined by the local government from time to time.

### **8.20 Form of licence**

- (1) The form of a licence issued under this Division shall be in the form determined by the local government and shall include the following –
  - (a) the full name and address of the licensee;
  - (b) the dates of issue and expiration of the licence;
  - (c) the number, type, form and construction as the case may be or any stand, table, structure or vehicle which may be used for trading;
  - (d) the particulars of the goods, wares, merchandise or services in respect of which trading may be carried on;
  - (e) the number and the full names and addresses of assistants (if any) who may be engaged at any one time in trading pursuant to the licence;
  - (f) the days and hours when trading may be carried on; and
  - (g) the details of the 3rd part liability insurance conditions.

### **8.21 Constraints on licensee or assistant**

- (1) A licensee or assistant specified in a licence shall not –
  - (a) engage in or permit any trading in any goods, wares, merchandise or services other than those specified in the licence;
  - (b) engage in or permit any trading in a place other than that specified in the licence;
  - (c) deposit, place or store any goods, wares or merchandise on any street, footpath or other public reserve other than on the place to which the licence applies;
  - (d) cause or permit or suffer any nuisance to exist, arise or continue on or from the permitted place specified in the licence;
  - (e) create any noise or disturbance to the annoyance of nearby occupants or passers-by; or
  - (f) obstruct the free passage of pedestrians on any footpath or street.

### **8.22 Constraints on licensee**

- (1) A licensee shall not –
  - (a) in trading use or employ or permit to be used or employed at any one time more than the maximum number of assistants specified in the licence; or
  - (b) transfer, assign or otherwise dispose of the licence.

### **8.23 Obligations on a licensee or assistant**

- (1) A licensee or assistant specified in a licence shall –
  - (a) personally attend at the place specified in the licence at all times when trading is conducted on or from that place;
  - (b) keep the place and any stand, table, structure or vehicle specified in the licence in a clean and safe condition and in good repair;
  - (c) keep the place and any stand, table, structure or vehicle specified in the licence free from trade refuse and other refuse and rubbish;
  - (d) on demand produce the licence to any authorised person of the local government or any Police Officer;

- (e) remove the stand, table, structure or vehicle and all of his goods, wares, merchandise and signs from the place to which the licence applies and leave that place clean and vacant in all respects –
  - (i) at the conclusion of the permitted hours of operation specified in the licence;
  - (ii) whenever not trading on the place to which the licence applies.

#### **8.24 Period of licence**

A licence is valid for the period between the date of issue and the following 31 August or until its revocation.

#### **8.25 Revocation of licence**

- (1) The local government or an authorised person may revoke a licence if –
  - (a) the licensee or assistant specified in a licence commits an offence against clause 8.16, 8.21, 8.22 or 8.23; or
  - (b) the local government or a Crown agency, instrumentality or department requires access to the place to which a licence applies for the purpose of carrying out works on, over or under that place.

#### **8.26 Refund of fees from revoked licence**

Where a licence is revoked the local government or an authorised person shall if requested provide the licensee with written reasons for the revocation and shall refund the fee having first deducted the fee applicable to the period from the issuing of the licence to the revocation thereof.