

## TRADE LICENSING ACT

**Repealed by Act. 2015-15 as from 7.10.2015****Principal Act**

<b>Act. No. 1978-35</b>	<i>Commencement</i>	1.1.1979
	<i>Assent</i>	1.11.1978

Amending enactment	Relevant current provisions	Commencement date
Acts. 1980-07	ss.2(1), 3(6), 8(1), 11(1), 13(3), 16(1) & (4A), 18(1A), 26(2)-(6) & Sch. 2	
1980-12	s.2(3)	
1982-17	s.16(1) & Sch. 2	
1982-35	ss.2(1), 3(1) & 7(3)	
1983-02	ss.17(3) & 20(2A)	
1983-21	Sch.2	
1984-13	s. 3(4), (5), (6), (7), (8) & (9) & Sch. 3	8.11.1984
1985-02	Sch. 2	1.1.1981
1985-21	ss. 13(3) & 16(2)	1.1.1986
1986-23	s. 16(4) & Sch. 2	1.3.1987
1988-26	ss. 2(1), 16(2)(2A), 17(2A), 28(f)(g) & 29. Sch. 1 & 2	8.12.1988 22.11.1990
2012-15	ss. 2(1), 7(2)(a), (b), (c) & (d), 16(3), 24(1), 26(1) & 28(1)	22.11.2012

**English sources:**

None cited

ARRANGEMENT OF SECTIONS.

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AN ACT TO MAKE PROVISION FOR THE LICENSING OF TRADERS  
AND PERSONS CARRYING ON CERTAIN BUSINESSES.

**Short title.**

1. This Act may be cited as the Trade Licensing Act.

**Interpretation.**

2.(1) In this Act, unless the context otherwise require—

“appropriate fee” means such fee as the Government may by regulation prescribed in relation to any matter under this Act;

“business” means business of a class specified in Schedule 2;

“commercial quantities” in relation to any goods imported by any person—

- (a) means any quantity that is in fact intended for resale, or to be disposed of, for profit or gain, to a person other than the importer; and
- (b) any quantity that is such, having regard to the usual and reasonable needs of persons of the same class as the importer, as to be indicative that the goods are intended to be resold, or otherwise disposed of for profit or gain, to a person other than the importer, and not to be retained or used by the importer himself—

but does not include in any case any quantity of goods that the importer proves are not imported for the purposes of resale, and are not otherwise intended to be disposed of for profit or gain, to a person other than the importer;

“goods” means any goods, wares, merchandise, commodities or materials;

“importing” means bringing or causing to be brought into Gibraltar;

“licence” means a licence issued under this Act and includes a duplicate issued under section 25 ;

“licence holder” means a person named in a licence;

“licensing authority” means the Trade Licensing Authority established under section 26;

“sell” includes exchange, barter, offer for sale or expose for sale, and “sale” and “selling” shall be construed accordingly;

“trade” means the buying or selling whether by wholesale or retail, of any goods by way of business and also means the importing of any goods into Gibraltar in commercial quantities ;

“year” means a calendar year.

(2) Subject to the provisions of section 27(3), no person shall be deemed to trade or carry on business by reason only—

- (a) that he is employed as a manager or servant by a person who trades or carries on business; or
- (b) that he is a director or shareholder of a body corporate which trades or carries on business.

(3) This Act shall not apply to—

- (a) any person appointed to conduct a sale of any goods in execution of an order of any court;
- (b) a sheriff or his deputy selling goods in the execution of his duty;
- (c) any person who sells any goods solely as a necessary incident to the provision of any professional or other personal services;
- (d) auctioneers;
- (da) any person in so far as he is carrying on the business of a bureau de change as defined in section 2 of the Bureaux de Change Act ;
- (e) any person who sells goods with the consent in writing of the licensing authority, in connection with the raising of funds for philanthropic, charitable, cultural, sporting or educational purposes; or
- (f) any person who sells from a private house goods which have been manufactured in that house and in which house not more than three persons manufacture goods.

(4) A person shall be deemed to carry on business if he engages in or carries on any business in Gibraltar.

**Restriction on trading and carrying on business.**

3.(1) Subject to the provisions of subsection (4) no person shall carry on business of a kind specified in Schedule 2 or trade—

- (a) unless he is the holder of a licence;
- (b) other than at or (in the case of a person who imports goods into Gibraltar in commercial quantities) from the premises specified in the licence ;
- (c) other than in the goods specified in the licence or the business specified in the licence ; and
- (d) otherwise than in accordance with the terms and conditions of such licence.

(2) A person shall be deemed to trade in goods if he gives such goods away in consequence of the sale of any other goods unless the licensing authority is satisfied that such giving away is a bona fide commercial exercise and so certifies in writing.

(3) For the purpose of subsection (2) “goods” shall not include any ticket or similar token enabling the donee to participate in any lottery authorized under the provisions of the Gaming Act.

(4) Any person who has been issued with a licence (which expression for the purposes of this subsection includes any registration which authorises the sale of any goods) under the provisions of any of the following enactment shall not require a licence under this Act to sell the goods authorised to be sold by such licence:

- (i) Firearms Act (Chapter 60)
- (ii) Markets, Street Traders and Pedlars Act (Chapter 98)
- (iii) Petroleum Act (Chapter 124)

(5) Notwithstanding anything contained in subsection (6) any person who has been issued with any of the following licences under the provisions of the Licensing and Fees Act shall not require a licence under this Act to sell the goods authorised to be sold by such licence:

- (i) tavern licence;
- (ii) hotel licence;
- (iii) beershop licence;

- (iv) club licence;
- (v) club (temporary premises) licence;
- (vi) canteen licence.

(6) Without prejudice to the provisions of subsection (5) but subject to, the provisions of subsection (7), no person who has been issued with a licence (which expression for the purposes of this subsection includes any registration which authorises the sale of any goods) under any of the following enactments shall be entitled to sell any goods under such licence unless he is the holder of a licence under the provisions of this Act:

- (i) Licensing and Fees Act (Chapter 90);
- (ii) Wireless Telegraphy Act (Chapter 162);
- (iii) Medical and Health Act (Act No. 5 of 1973).

(7) Any person who, on the 4th day of May, 1978—

- (a) was licensed as a baker under the provisions of the Licensing and Fees Act,
- (b) was the holder of any of the following licences under the provisions of the Licensing and Fees Act:
  - (i) manufacturers' licence,
  - (ii) wholesale wine merchants' licence,
  - (iii) full wine merchants' licence,
  - (iv) beer merchants' licence,
  - (v) grocers' wine licence,
  - (vi) travellers' wine licence,
- (c) was licensed to sell tobacco under the provisions of the Licensing and Fees Act,
- d) was licensed to sell or deal in wireless apparatus under the provisions of the Wireless Telegraphy Act,

- (e) was selling medicinal products from a pharmacy registered under the provisions of the Medical and Health Act, 1973,

shall be entitled to a licence under this Act upon application to the licensing authority to sell such goods as he was authorised to sell on the 4th May, 1978.

(8) Any person who has paid any fee in respect of a licence issued under subsection (6) who is refused a licence under this Act shall be entitled to be refunded such fee.

(9) Any person who contravenes the provisions of this section shall be guilty of an offence.

## **Issue of licences.**

4.(1) The licensing authority may issue licences to trade or to carry on business.

(2) A licence shall authorize the person named therein to trade in the goods of the kind specified therein or to carry on business of the kind specified therein on the premises specified therein and subject to such other terms and conditions, if any, as may be specified therein.

(3) A licence shall be in such form as may be prescribed.

(4) A licence shall relate to a single premises only.

## **Fees and duration of licences.**

5.(1) There shall be payable in respect of every licence, the appropriate fee:

Provided that where a licence is issued in respect of any year after the 30th June in that year, the fee payable in respect of such licence shall be one-half of the appropriate fee :

Provided further that no fee shall be payable in respect of a licence if the licensee has paid any licence fee under any other Act in respect of the goods to be sold by licence under that Act.

(2) Subject to the provisions of this Act a licence shall continue in force until the 31st December next following the date of issue thereof, and shall thereupon expire.

(3) Any fee payable under this Act shall be paid into the Consolidated Fund.

**Transfer of licence.**

6.(1) No licence shall be transferred to another person or to other premises without the consent of the licensing authority.

(2) Every consent to transfer shall be endorsed on the licence with the details of the change of the licence holder or premises as the case may be.

**Transfer where trade or business is to remain on same premises.**

7.(1) Subject to the provisions of subsections (2) and (3), the licensing authority shall not refuse consent to a transfer where the transfer is to another person and the trade or business is to be carried on on the same premises.

(2) The licensing authority may refuse its consent to a transfer, notwithstanding that after the transfer the trade or business is to be carried on on the same premises, if—

- (a) the transferee is under the age of eighteen years;
- (b) the transferor is a co-operative society registered under the Co-operative Societies Act and the transferee is not such a society;
- (c) the transferor has left or proposes to leave the premises while owing, to the Government, rent, rates, social insurance payments, duties or taxes and the transferee has made no proposal for settlement of the amounts owing; or
- (d) the transferor has been charged with an offence in respect of one or more goods covered by the licence.

(3) The licensing authority shall refuse its consent to a transfer notwithstanding that after the transfer the trade or business is to be carried on on the same premises if it would be bound to refuse the transferee a licence under the provisions of section 17 if he were an applicant for a licence.

(4) The licensing authority shall—

- (a) in the case of the death of a licence holder and if so requested by the surviving spouse or the legal personal representative of the deceased licence holder, transfer the licence to such surviving spouse or such legal personal representative, as the case may be ;



- (b) in the case of the bankruptcy of the licence holder or assignment for the benefit of his creditors generally, transfer the licence to the lawfully appointed trustee or assignee if so requested by such trustee or assignee ;
- (c) where a licence holder is a company in liquidation transfer the licence to the lawfully appointed liquidator if so requested;
- (d) in any case where a licence holder becomes subject to any legal disability, transfer the licence to any person lawfully appointed to administer his affairs, if so requested by such person.

### **Transfer where trade or business is to be carried on on other premises.**

8.(1) Subject to the provisions of subsection (4), the licensing authority may refuse its consent to the transfer of the trade or business, to other premises for any of the reasons set out in section 16(1)(b) to (g).

(2) The licensing authority shall, before granting or refusing its consent to the transfer of a trade or business to other premises, require the applicant to give notice of intention of the proposed transfer in the same way, *mutatis mutandis*, as notice of intention to apply for a licence is required to be given under section II (2).

(3) The provisions of sections 11, 12, 13 and 14 shall apply, *mutatis mutandis*, to applicants for the transfer of a licence.

(4) The licensing authority shall refuse its consent to a transfer where the licence has been granted to trade or carry on business in premises for which a building permit has been granted by the Development and Planning Commission under the provisions of the Town Planning Act, and the transfer would either conflict with the provisions of such permit or, within five years of the time when trading started as a result of such permit, is to premises to which such permit does not relate.

### **Issue of licences, etc.**

9. A licence, and any consent to the transfer of a licence endorsed thereon, may be issued under the hand of any person authorized in writing in that behalf by the licensing authority.

### **Registers of licences.**

10.(1) The licensing authority shall cause to be kept a register of licences in such form and containing such particulars as may be prescribed and there shall be entered in such register the details of any licence issued and of any consent to transfer granted under section 6.

(2) The register of licences shall be available for inspection by any member of the public during such hours as may be prescribed on the payment of the appropriate fee.

**Notice of intention to apply for a licence.**

11.(1) Any person who intends to apply for a licence, unless the application is for the renewal of a licence currently in force, shall give notice of such intention in accordance with the provisions of subsection (2).

(2) A notice of intention shall be in the prescribed form and shall, not less than fourteen days before the application for the licence is made, be published in the Gazette and in at least one newspaper circulating in Gibraltar.

(3) This section shall not apply to an applicant who under the provisions of this Act is entitled as of right to a licence.

**Objections.**

12.(1) Where a notice of intention to apply for a licence has been published in accordance with the provisions of section 11(2), any person who wishes to object to the issue of such licence, shall give notice of his objection within fourteen days thereafter in the prescribed form to the licensing authority, and to the person named as the applicant in such notice, of such intention.

(2) No objection under this section shall be considered by the licensing authority in respect of an application for a licence unless—

- (a) the grounds of such objection are stated ; and
- (b) notice thereof is given within the time prescribed under subsection (1).

(3) A person who has given notice of objection shall be entitled to be heard by the licensing authority when it considers the application and shall be given not less than seven days notice in writing of the date, time and place of hearing of the application.

(4) Where a notice of objection has been received by the licensing authority such authority shall consider the application and objection at a hearing of which not less than seven days notice in writing has been given to the applicant and the objector. Both the applicant and the objector and/or their professional legal advisers shall have the right to attend such hearing, give evidence and call witnesses to cross-examine witnesses for the other party and to address the authority but shall not have the right to be present

during any deliberation of the authority after the evidence and addresses, if any, have been concluded.

## **Applications for licences.**

13.(1) Every application for a licence shall be made in the prescribed form .

(2) An application for a licence for a partnership shall be made in the names of all partners jointly.

(3) An application shall be made to the licensing authority not less than 3 months before it is desired that the licence be issued:

Provided that this subsection shall not apply if the applicant is –

- (a) a company incorporated -in Gibraltar or under the laws of a Member State of the European Economic Community;
- (b) A National of a Member State of the European Economic Community who has a valid residence permit issued under Part IX of the Immigration Control Act or who has a right of establishment in Gibraltar or a right to provide services and intends to exercise either of those rights;
- (c) a person who either does not require a permit to reside in Gibraltar or who has a certificate of permanent residence issued under the Immigration Control Act; or
- (d) a person who under the provisions of this Act is entitled as of right to a licence.

## **Consideration of applications.**

14.(1) Subject to the provisions of this section, the licensing authority may, in its discretion, in considering an application for a licence dispense with a personal hearing.

(2) Where notice of an objection to the grant of a licence has been given then, unless the licensing authority is precluded from considering the objection by reason of the provisions of section 12(2), it shall hold a personal hearing of the application.

(3) If, having dispensed with a personal hearing, the licensing authority is proposing to refuse an application for a licence it shall give notice in writing to the applicant that it is proposing so to do and shall, by the same notice, give the applicant the opportunity to be heard before it at such place and at

such time and date, being not less than seven days from the date of the notice, as may be specified in such notice.

**Powers of licensing authority in considering applications.**

15.(1) The licensing authority shall, for the purpose of considering an application for a licence, have power—

- (a) to take evidence on oath or affirmation and, for that purpose, to administer oaths or affirmations ;
- (b) to summon by notice in such form as it may consider appropriate any person to give evidence in respect of such application or to produce any book, plan or document relating thereto;
- (c) to make such investigation as may be necessary in order to ascertain any of the matters which it is required to consider under section 16:

Provided that no person shall be required under this subsection to produce any book or account or voucher or receipt directly relating to his trade.

(2) Every oath or affirmation shall be administered by the chairman or other person presiding.

(3) Without prejudice to the provisions of section 12(4) at any personal hearing the applicant and/or his professional legal adviser shall have the right to attend such hearing, give evidence and call witnesses, cross-examine any witness not called by him but summoned by the licensing authority and to address the authority but shall not have the right to be present during any deliberations of the authority after the evidence and addresses, if any, have been concluded.

- (4) A person who knowingly—
  - (a) gives any false information to the licensing authority in connection with an application for or objection to a licence; or
  - (b) makes any false entry in the prescribed form in respect of an application for or objection to a licence,

is guilty of an offence.

**General principles affecting issue of licences.**

16.(1) Subject to the provisions of subsection (2) and of section 17, the licensing authority may in its discretion refuse to issue a licence, if it is satisfied—

- (a) that the applicant is under the age of eighteen;
- (b) that the issue of such licence is likely to cause nuisance or annoyance to persons residing or occupying premises in the neighbourhood of the premises in respect of which the licence is sought;
- (c) that the premises on which the applicant intends to conduct his trade or business would not conform to the requirements of any law for the time being in force ;
- (ca) that there is already in force a licence in respect of the premises, or any part of the premises, on which the applicant intends to conduct his trade or business;
- (d) that the issue of such licence would conflict with any town planning scheme approved by the Development and Planning Commission;
- (e) that the issue of such licence would operate against the public interest ;
- (f) that the needs of the community either generally in Gibraltar or in the area thereof where the trade or business is to be carried on are adequately provided for; or
- (g) that the issue of the licence would unduly prejudice the implementation of price control under the Price Control Act:

Provided that a licence shall not be refused under these paragraphs if the applicant—

- (i) is applying for the renewal of a licence in force ; or
- (ii) except on the grounds set out in paragraph (b), (c) or (d), is a co-operative society registered under the Co-operative Societies Act.

(2) In considering and deciding on applications for licences, including the terms and conditions of licences, the licensing authority shall not discriminate between—

- (a) nationals of the United Kingdom for the purposes of the treaty establishing the European Economic Community and nationals of any other Member State of that Community;
- (b) companies or firms formed in accordance with the law of Gibraltar, companies or firms formed in accordance with the laws of the United Kingdom or any part thereof, and companies or firms formed in accordance with the law of any other Member State of the European Economic Community or of any part of such a State.

(2A) Subsection (2)(b) applies to companies or firms having their registered office or the seat prescribed by their statutes or other constituent instruments, their central administration or their principal place of business in the European Economic Community.

(3) The Government may give directions to the licensing authority generally with respect to the exercise of its functions under this Act in relation to matters, which affect the public interest and the licensing authority shall give effect to any such directions. Whenever a licence is refused on the grounds of public interest the licensing authority shall so state this in its decision.

(4) No licence granted under the provisions of the Development Aid Act shall entitle any person to a licence under the provisions of this Act unless it is specified in the former licence that the applicant or any person deriving title from the applicant is entitled to a licence under the provisions of this Act.

(4A) Notwithstanding subsection (4), where—

- (a) before the commencement of this Act a development aid licence was issued to a person under the Development Aid Act; and
- (b) the development aid licence remains in force and is being complied with—

that person shall be entitled and shall be deemed at all times since the commencement of this Act to have been entitled to a licence under the provisions of this Act for the development aid project to which the development aid licence relates.

(5) Nothing in subsection (4) shall entitle a person to a licence under this Act if he is precluded from holding a licence under section 17.

**General restrictions on power to issue licences.**

17.(1) The licensing authority shall refuse to issue a licence to any person who—

- (a) is an undischarged bankrupt or has entered into a composition or a scheme of arrangement with his creditors which is still binding; or
- (b) has, within a period of five years immediately preceding the date of the application, been convicted of an offence against the Bankruptcy Act.

(2) Without prejudice to the provisions of subsection (1), the licensing authority shall refuse to issue a licence to a partnership if any partner therein is a person referred to in subsection (1) (a) or (b).

(2A) The licensing authority shall accept as sufficient evidence that a person is not in the United Kingdom or, as the case may be, in another Member State of the European Community a person such as is referred to in subsection (1)(a), a certificate or other document showing that that is the case issued by a competent judicial or administrative authority in that State, or, where or in so far as that State does not issue such a document, a declaration on oath or a solemn declaration stating the relevant facts made by the person concerned before a commissioner for oaths, notary or other competent authority in that State and accompanied by a certificate issued by that authority attesting the authenticity of the declaration.

(3) Without prejudice to subsection (6) of section 3; where a person applies for a licence to trade in any goods and he is required under any enactment specified in section 3 to hold a licence to trade in those goods, the licensing authority shall refuse to issue to him a licence under this Act to trade in those goods unless the applicant first satisfies the licensing authority that he is the holder of a valid licence under that other enactment authorizing him to trade in those goods.

**Licensing authority may issue a licence subject to conditions.**

18.(1) The Licensing authority may issue a licence, subject to such terms and conditions as it considers necessary.

(1A) Without prejudice to the generality of subsection (1), the licensing authority may issue a licence subject to the condition—

- (a) that goods may only be sold by wholesale and not by retail ; or
- (b) that goods may only be sold by retail and not by wholesale—

from the premises to which the licence relates.

(2) No terms or conditions may be imposed in the renewal of a licence restricting the type of goods which may be sold which would prevent the licensee from selling any goods which he was selling under the licence which is to be renewed.

**Mandatory issue of licences in certain cases.**

19.(1) Notwithstanding anything contained elsewhere in this Act a person who has been awarded a contract which is required to be and has been advertised in the official Journal of the European Economic Community by reason of the value of the contract shall, upon application, be granted a licence under this Act to enable him to carry out such contract.

(3) Notwithstanding anything contained in this Act, a licence issued under the provisions of subsection (1) shall—

- (a) be for the period of the contract;
- (b) relate to the contract only; and
- (c) not entitle the holder thereof to a renewal thereof.

**Cancellation where licensee ceases to carry on trade or business.**

20.(1) Where a licence has been issued in respect of a business and such business has not been carried on for a period of twelve months the licensing authority may, after giving the licence holder the opportunity to be heard, cancel the licence.

(2) Where a licence has been issued in respect of trade and such trade has not been carried on for a period of two years or has not been carried on in respect of all the types of goods for which it was issued, the licensing authority, may, after giving the licence holder the opportunity to be heard, cancel the licence or cancel the licence in respect of such types of goods in which trade has not been carried on as the case may be.

(2A) Where a licence has been issued in respect of a business or trade, and the licence holder has vacated the premises to which the licence relates, the licensing authority may, after giving the licence holder the opportunity to be heard, cancel the licence.

(3) For the purposes of this section a notice of the opportunity to be heard shall—

- (a) give the licence holder not less than twenty one days notice of hearing; and



(b) state the date, time and place of the hearing.

(4) At any hearing under this section the provisions of section 15 shall apply.

## **Renewal.**

21.(1) The licensing authority may in its discretion delegate to the person authorized by it under section 9 to issue licences the power to issue renewals of licences without reference to the licensing authority.

(2) Nothing in this section shall permit the renewal of a licence-

- (i) if the issue of a licence would be precluded under section 17 ;
- (ii) authorizing the sale of a type of goods different to those authorized in the licence to be renewed ;
- (iii) on terms or conditions different from those contained in the licence to be renewed;
- (iv) in respect of a different type of business from that to which the licence to be renewed relates ;
- (v) to a person other than the licence holder of the licence to be renewed ; or
- (vi) in premises different from those to which the licence to be renewed relates.

## **Appeals.**

22.(1) Any person who is aggrieved by-

- (a) the refusal to issue him with a licence or the renewal of a licence for which he has applied ;
- (b) the refusal to approve an application by him for the transfer of a licence ;
- (c) any term or condition included in a licence issued to him ; or
- (d) the cancellation, including a partial cancellation under the provisions of section 20(2), of a licence issued to him,

may appeal to the Stipendiary Magistrate.

(2) Where any appeal is heard by the Stipendiary Magistrate an appeal shall lie on a point of law from the Stipendiary Magistrate to the Supreme Court.

(3) The Chief Justice may make rules of court governing appeals under subsection (2).

**Display of licences.**

23.(1) Where a licence is issued in respect of any premises, the licence holder shall 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) is guilty of an offence and is liable on summary conviction to a fine of £20.

**Entry on premises and production of licences.**

24.(1) Any person authorized in writing by the Government (hereinafter referred to as an authorized person) may, on production of evidence of his identity and authority to any person reasonably requiring it—

- (a) at any reasonable time, enter any premises where trade or any business is being carried on and require any person appearing to be in charge of such premises to produce the licence issued in respect of such premises for inspection or to satisfy him that a licence is not required under the provisions of this Act ;
- (b) require any person referred to in paragraph (a) to give such information as he may reasonably require to enable him to ascertain whether the provisions of this Act are being complied with.

(2) A licence holder, or a person referred to in subsection (1) (a) or (b) who—

- (a) fails to produce a licence upon being lawfully required to do so;  
or
- (b) hinders or obstructs an authorized person,

is guilty of an offence.

**Duplicate licences.**

25.(1) Where any licence is lost, destroyed or defaced, the licence holder may make application in the prescribed form to the licensing authority for a duplicate of such licence, and the licensing authority shall, if satisfied that such licence is lost, destroyed or defaced and has not expired, issue a duplicate thereof to the licence holder.

(2) An application under this section shall be accompanied by the appropriate fee.

## **Trade Licensing Authority.**

26.(1) There is hereby established a Trade Licensing Authority which shall consist of the Chairman and eight other members appointed by the Government, two of whom shall be appointed after consultation with the Gibraltar Chamber of Commerce, two after consultation with the Gibraltar Trades Council and two after consultation with the Gibraltar Federation of Small Businesses.

(2) Four members shall constitute a quorum at any meeting of the licensing authority.

(3) At all meetings of the licensing authority the Chairman, or in his absence such other member as the members present shall appoint, shall preside.

(4) All decisions of the licensing authority shall be decided by a majority vote of the persons present at any meeting, and in the case of an equality of votes the person presiding at the meeting shall have a second or casting vote.

(5) No decision of the licensing authority shall be invalid by reason only of there being a vacancy among the members of the licensing authority.

(6) Subject to this Act and to any regulations made under this Act, the licensing authority may by rules or otherwise regulate its own procedure.

## **Penalties.**

27.(1) A person who is guilty of an offence against this Act for which no punishment is specifically provided, is liable upon summary conviction to a fine of £200 and in addition, where the offence is a continuing offence, to a fine not exceeding £5 for each day during which the offence continues after such conviction.

(2) Where, in a prosecution for an offence against this Act, it is alleged that a person is not the holder of a licence, it shall be presumed that such person is not the holder of a licence until the contrary is proved.

(3) Where any offence against this Act is committed by a body corporate, any person who, at the time of the commission of the offence, was a director, general manager or secretary or other similar officer of such body corporate or who was, at that time, acting or purporting to act in any such capacity, is guilty of such offence unless he proves—

- (a) that the offence was committed without his knowledge or consent; and
- (b) that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in such capacity.

**Giving of notice.**

27A. Any notice which is required to be given by this Act, other than a notice which is required to be published in the Gazette, shall be deemed to have been properly given if it has been sent by registered post to the person to whom it is directed at his last known address.

**Regulations.**

28.(1) The Government may make regulations prescribing all matters, which by this Act, are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1) regulations may provide for—

- (a) the keeping of books, documents, accounts and records in respect of the sale of goods by traders including the entries to be made therein in respect of dealings in goods;
- (b) regulating and controlling the sale and delivery of goods by or to any person or any class or classes of persons required to hold a licence under this Act ;
- (c) the manner in which applications for licences may be made and the forms to be used in connection therewith ;
- (d) subject to the provisions of this Act, the procedure to be followed in the making of objections under section 12 and in relation to appeals under section 22(1) ;
- (e) the form of licences ;

- (f) the form of the register of licences required to be kept by the licensing authority under section 10;
- (g) the charging of fees in respect of any matter failing within this Act.

## **Provision concerning certain Licences issued before 16 December 1982**

29.(1) A licence to trade in any goods that-

- (a) has been issued before 16<sup>th</sup> December 1982
- (b) has been renewed annually since that date, and
- (c) is in force on the date of commencement of this section, shall be deemed to authorise, and always to have authorised, the licence holder to import into Gibraltar in commercial quantities goods of the kind specified in the licence.

(2) For the avoidance of doubt, it is hereby declared that nothing in subsection (1) shall be taken to authorise the importation into Gibraltar of any goods without an import licence or permit where such licence or permit is required by or under the Imports and Exports Act or any other law, or otherwise than in accordance with any conditions of such licence or permit.

**SCHEDULE 1.**

*Revoked.*

**SCHEDULE 2.**

Section 3(1)

Specified Businesses

BUILDING CONTRACTING

CARPENTRY

DECORATING

JOINERY

PAINTING

PLUMBING

WOODWORK

CATERING

ELECTRICAL CONTRACTING

HAIRDRESSING

MANUFACTURING

ROAD TRANSPORT CONTRACTING

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In so Far as undertaken in  
the context of Building  
Contracting