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BUSINESS LICENCE REGULATIONS, 2023

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MINISTRY OF FINANCE

S.I. No. 49 of 2023

BUSINESS LICENCE ACT, 2023

BUSINESS LICENCE REGULATIONS, 2023

The Minister in exercise of the powers conferred by section 70 of the Business Licence Act, 2023 hereby makes the following regulations —

1. Citation and commencement.

(1) These Regulations may be cited as the Business Licence Regulations, 2023.

(2) These Regulations shall come into operation on the 1st day of July, 2023.

2. Interpretation.

In these Regulations —

"independent practitioner" means person licensed under The Bahamas Institute of Chartered Accountants Act, 2015 *(No. 13 of 2015)* who is not connected to the business for which he is preparing a statement of turnover under regulation 5;

"statement of turnover" means a report or audited financial statement prepared by an independent practitioner under regulation 5.

3. Forms of application and licence.

(1) Every application for a business licence under the Act shall be made in Form A as set out in the *First Schedule*.

(2) A business licence granted pursuant to section 2 2 of the Act shall be issued in Form C as set out in the *First Schedule*.

4. Fees.

Fees chargeable in the administration of the Act shall be payable as set out in the *Second Schedule.*

5. Furnishing of statement of turnover.

(1) Subject to paragraph (2), where a business has a turnover of —

(a) two hundred fifty thousand dollars or more but less than five million dollars, its application for renewal of its business licence must be accompanied by an independent practitioner's report on the turnover of the business issued by an independent practitioner in accordance with International Standards on Review Engagements;

(b) five million dollars per annum or more, its application for renewal of its business licence must be accompanied by audited financial statements for the previous calendar year issued by an independent practitioner.

(2) The report and the audited financial statement by an independent practitioner under paragraph (1) must —

(a) be consistent with and recognize revenue in accordance with the provisions of the Act, regardless of the method of accounting and the revenue recognition principles ordinarily used by the business in computing revenue;

(b) detail the accounting policies adopted by the independent practitioner in recognizing revenue;

(c) detail each revenue stream of the business, with specific reference to the components of turnover outlined in the definition of turnover in the Act, and the amounts that relate to each revenue stream;

(d) provide a detailed explanation of any deductions from amounts received or receivable by the business;

(e) provide a breakdown of the turnover for each business unit included in the statement of turnover;

(f) provide details of all related party transactions including the revenue allocated to these transactions.

(3) Notwithstanding the provisions of paragraph (1), the Secretary may for the purposes of determining the reasonableness or accuracy of the turnover reported by any business in its application for renewal of its business licence, request the submission of any information, documents, or records that the Secretary determines is required to verify the turnover of the business for the previous calendar year.

(4) Where the Secretary has reason to believe that a report or statement prepared by an independent practitioner is inaccurate, the Secretary may refuse such report or statement and submit a complaint of professional misconduct to the Secretary of the Bahamas Institute of Chartered Accountants.

6. Electronic submission of orders, notices, applications and other documents.

(1) Where any order, notice, application or other document is required under the Act, such order, notice, application or other document may be —

(a) submitted to the Secretary by any electronic means approved by the Secretary; and

(b) issued by the Secretary to a person by any electronic means approved by the Secretary or by any other electronic means communicated by the person.

(2) The proof of service of any document referred to under paragraph (1) may be by means of a return receipt, verification report, automated electronic log or acknowledgement of receipt.

7. Fixed penalties.

(1) Pursuant to section 57 of the Act, the contraventions prescribed in the first column of the *Third Schedule* are subject to the fixed penalties set out in the third column of the *Third Schedule*.

(2) Where the Secretary applies a fixed penalty, the Secretary may publish in such manner as he deems appropriate a statement of the contravention or non-compliance in respect of which the fixed penalty is imposed.

8. Procedure for imposition of fixed penalties.

The Secretary may, in determining the amount of a fixed penalty to be imposed on a person who has committed a contravention or non-compliance, take into account the —

(a) degree of intention or negligence on the part of such person;

(b) harm done by the contravention or non-compliance;

(c) history of such person having regard to the imposition of any prior penalty, or conviction for an offence under the Act, within the five-year period immediately before the contravention or non-compliance;

(d) whether such person brought the contravention or non-compliance to the attention of the Secretary;

(e) whether or not the contravention or non-compliance was inadvertent;

(f) efforts, if any, made to rectify the contravention or non-compliance and to prevent a recurrence;

(g) potential financial consequences to such person, and to third parties including customers and creditors of such person, of imposing a penalty; and

(h) the amount of the penalties imposed by the Secretary in other same or similar cases.

FIRST SCHEDULE

FORM A
BUSINESS LICENCE APPLICATION

Please read instructions before completing this form. Important details are included in the instructions. Information on this form must be printed or typed.

Each agency may request additional information depending on your type of business. (See list of requirements) This form must be accompanied by approval from other government or regulatory agencies where required.

1. Applying for:

□ New Business	□ Change in Ownership	□ Change in Location
□ Change in Name	□ Change in Corporate Officers	□ Change in Mailing Address
□ Occasional Licence	□ Temporary Licence	□ Inactivation
□ Cease Business	□ Other	

2. Business entity type:

□ Home Based	□ Publicly Traded Company	□ Privately Held Company
□ Bahamian Owned	□ Partnership	□ Limited Liability Partnership
□ Limited Liability Company		□ Government Entity

3. Trading As: _____

4. Requesting Trade Name:

(a) _____

(b) _____

(c) _____

5. Individual/Company/Entity Name & Contacts

_____

_____

6. Cellular: _____

Telephone _____

Facsimile _____

7. Nationality □ Bahamian □ Foreign

NIB # _____

Control # _____

Assessment No. _____

8. Location of Business Operations:

Street, Number, Direction (N, S, E, W) and Name _____

Unit or Apt. # _____

Place of Incorporation or Formation _____

9. E-mail Address: _____

Website Address _____

10. Mailing Address: _____

P.O. Box _____

Settlement _____

Island _____

11. Location(s) of Business Operations

Street, Number, Direction (N, S, E, W) and Name _____

Unit or Apt. # _____

Settlement _____

Island _____

12. List ALL Owners, Partners, Corporate Officers, Managers, Members, etc. (If individual ownership, list only one owner.) Attach Additional Sheets if needed. (If others, please provide on a separate sheet.)

Last, First, MI: _____

Residence Address (Street) _____

NIB# _____

Title _____

Percent Owned _____

Settlement _____

Island _____

Residence Telephone _____

13.Date Business Started _____

(D/M/Y)

Number of Employees _____

14. Type of Business _____

(Please see attached instruction form)

15. Describe Product(s) sold or service(s) provided

_____

_____

FINANCIAL INFORMATION

Financial Information for Period of Operation in Prior Year:

□ Turnover □ Gross Premium $

Tax Payable: $

17. **I CERTIFY THE INFORMATION PROVIDED IS TRUE, CORRECT AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF**

Signatures must be original and that of a responsible party. If a general partnership or joint venture, more than one signature is required. Legal signatures include: sole proprietor-owner, corporate officer, and managing member.

**Signature Responsible Party/Original

Print Name And Title

Date (D/M/Y)

**Signature Financial Certification (where applicable)

Print Name And Title

Date (D/M/Y)

FOR OFFICIAL USE ONLY

Application Completed:

If Yes, State Date:

If No, Give Reason

Checks/Controls Completed by:_____ Date_____

(Officer's Name)

Approval Granted by: _____ Date_____

(Officer's Name)

COMMENTS:

_____

_____

_____

FORM B

(regulation 3)

BUSINESS LICENCE

Licence Number: TIN:

Pursuant to section _____ of the Business Licence Act _____ is hereby granted a licence to practice/carry on the profession/occupation/business of

at:

_____

_____

_____

subject to the terms and conditions specified in that Act and subject also to the special terms and conditions following, that is to say:

- the Licensee has paid the business licence tax as assessed
- the Licensee has maintained the pre-required certification by other government and regulatory agencies

_____

Granted this day of , 20

By and with the authority of the Secretary

_____

Secretary

This licence expires

SECOND SCHEDULE

ADMINISTRATIVE FEES

	$
Replacement copy of licence	10.00
Examination of register	10.00
Certified extract or copy of entry from the register	10.00

THIRD SCHEDULE

(regulation 7)

Description of contravention	Fixed Penalty
Failure to apply for or renew a business licence or carrying on business without a business licence	Maximum $100,000
Failure by a licensee to produce licence for inspection upon request by Secretary or a peace officer	Maximum $50,000
Failure to comply with a request by the Secretary made by notice in writing	Maximum $50,000
Failure to give the Secretary reasonable assistance or to answer questions or to impede the exercise of powers under the Act	Maximum $100,000
Failure to provide the Secretary with documents requested pursuant to section 7 or section 39	Maximum $150,000
Being a bank or other financial institution, failure to comply with a request by the Secretary made in writing	Maximum $150,000
Failure by a temporary business to provide security in the form, amount and time specified by the Secretary	Maximum $70,000
Preventing, interfering with or impeding the Secretary in the exercise of any power under the Act	Maximum $100,000
Impeding tax administration by failing to comply with any provision under the Act	Maximum $50,000
Being designated an agent, failing within the time prescribed to pay money or deliver property specified in the notice to the Secretary	Maximum $100,000
Being a receiver, failing to give notice to the Comptroller in writing, the earlier of the occurrence of fourteen days after the appointment as a receiver or taking possession of an asset of a person liable to tax within The Bahamas	Maximum $50,000
Being a receiver, failing to set aside the tax assessed out of the proceeds of the disposal of an asset	Maximum $100,000

Being a declared representative contravening the provisions of section 45	Maximum $100,000
Being a director or similar officer, failing to pay within the specified time, the amount payable in a notice of assessment	Maximum $30,000
Failing to keep reliable accounting records in English in relation to a taxable transaction or failing to keep records for a period of five years	Maximum $100,000
Making an omission, a false or misleading statement to the Secretary	Maximum $150,000
Being an independent practitioner, making a false or misleading statement in a statement of turnover or other return that is attributable to the practitioner's neglect, carelessness, wilful default or fraud	Maximum $150,000
Making a false or misleading statement to the Secretary in in relation to the beneficial ownership of a business	Maximum $150,000

Dated the 1st day of July, 2023.

Signed
PHILIP EDWARD DAVIS
Minister Responsible for Business Licences