

TRADES LICENSING ORDINANCE (Sabah Cap. 144)

To provide for the licensing of trades and businesses.

Date of commencement.

[1st January, 1949.]

Short title.

1. This Ordinance may be cited as the Trades Licensing Ordinance.

Interpretation.

2. In this Ordinance, unless the context otherwise requires –

“banker” means any person, whether registered in *Sabah or not, engaged in the business of banking;

“building contractor” means a person who contracts to build any premises the cost of which (inclusive of labour and materials employed on such work whether they be supplied by the contractor or by some other person) equals or exceeds the sum of four thousand dollars;

“business” means any trade or industry not exempted from the provisions of this Ordinance but does not include the practice of a profession;

“commercial traveller” means any person who solicits orders for goods on behalf of other persons but does not include a person employed as a traveller by a person licensed under this Ordinance;

“importation” means the importing of goods into Sabah and resale of such goods in the same condition as when they were imported into Sabah;

* Throughout this Ordinance “Sabah” has been substituted for “the Colony” by virtue of Article 48(1) of the Constitution of the State of Sabah.

“insurance salesman” means any person who enters into a contract of insurance of any kind with any person in Sabah for or on behalf of any insurance company which has not established a place of business in Sabah;

“licensing authority” means the person having authority under section 4 to issue a licence under this Ordinance;

“place of business” means any premises or place, or any part of any premises or place, at which any business is conducted but does not include any premises or place, or part thereof, used solely for the storage of goods ancillary to such business;

“remittance shop” means the business of operating for profit in foreign exchange transactions or sending money out of Sabah but does not include a money changer or a banker licensed under this Ordinance;

“shipping” means the business of carrying passengers or goods overseas or coastwise in mechanically propelled vessels;

“trading licence” means a licence issued under this Ordinance.

Prohibition on carrying on business without a licence.

3. (1) No person shall carry on in Sabah, whether as principal or agent, any business in respect of which a valid trading licence is not for the time being in force or carry on any such business in any place other than that specified in such licence.

(2) Save in the case of such licences as may be specified in the First Schedule as being in force at any place or places in Sabah, a separate trading licence is required for each place of business, but any number of businesses for which he is licensed may be carried on by the licensee in any place of business for which he holds a licence.

(3) A trading licence shall authorise the holder to carry on the business described in the licence, and, except in the case of a licence to carry on the business of banking, shipping or air transport or any agency thereof, lighterage or stevedoring, a remittance shop, a building contractor or any other business declared by the Minister to come within this exception, any other business in respect of which an equal or lower fee is payable under this Ordinance, but shall not authorise the carrying on of any business for which any licence or permit is required by any other written law.

(4) If any person contravenes the provisions of this section, he shall be liable for each offence to a fine of four times the amount of the licence fee and to a further fine of ten dollars for each day or part of a day subsequent to a conviction during which the contravention continues.

(5) A licensing officer may compound any offence against this section for a sum of money not less than one-fourth of the maximum fine provided for such offence.

Licensing authority.

4. (1) Trading licenses shall be issued by the administrative officer or his assistant in charge of the district in which the premises to be licensed are situated, or, if the business is not carried on in definite premises, in which the person carrying on the business usually resides, or has his principal place of business or first lands in Sabah.

(2) The Minister may appoint any other person to be the licensing authority in respect of any area or areas in addition to or in substitution for such administrative officer.

Forms of licences and applications.

5. (1) Every application for a trading licence and every such licence shall be in the prescribed forms.

(2) Every application for a trading licence shall be signed by the individual in whose name the licence is to be issued, or, where the person in whose name the licence is to be issued is not an individual, by the owner, manager or authorised representative of the business:

Provided that the licensing authority may, if it thinks fit, accept the signature of the authorised representative of an individual in whose name the licence is to be issued:

And provided further that a trading licence may be issued to an illiterate person without written application, if the licensing authority so decides and the applicant applies in person for the issue thereof.

(3) Every application for a trading licence shall contain in respect of each place of business the present names, surnames and any former names either in English or Chinese, age if under 21 years, nationality, and usual place of residence of all persons who are proprietors, partners, agents or managers of such business or have any financial

interest therein or, where the applicant is a company, the same particulars of the manager of such company.

(4) Whenever a change is made or occurs in any of the particulars stated in any application every person whose name was disclosed on the original application shall be liable to file or cause to be filed within fourteen days of such change a statement in writing in a prescribed form specifying the nature and date of such change.

Duration of trading licence.

6. A trading licence shall continue in force until the thirty-first day of December next following the date of commencement.

Fees for trading licences.

7. (1) Trading licenses shall be of the kinds specified in the First Schedule and subject to the succeeding subsections, the annual fee for such licence shall be that set opposite to the description of such licence.

(2) Where a licence is issued for a period commencing after the thirtieth day of June in any year, the fee for the licence shall be two-thirds of the fee specified, and where a licence is issued after the thirtieth day of September in any year, the fee for that licence shall be one-third of the fee specified. This subsection shall not apply to a licence to carry on the business of a commercial traveller or insurance salesman.

(3) The fees for trading licences in respect of a place of business in any area in Sabah specified in the Second Schedule shall be such proportion of the fees specified in the First Schedule as shall be specified in the Second Schedule.

Ineligibility of certain persons for obtaining trading licences.

8. (1) The following persons shall not be eligible to obtain a trading licence, that is to say –

- (a) a person under the age of eighteen years;
- (b) a person who has been disqualified from obtaining a trading licence under the provisions of section 15 during the period of such disqualification.

(2) Before issuing any trading licence the licensing authority may call for such evidence of the age or condition of an applicant for such licence as it thinks fit and in all cases of doubt the decision of the authority shall, subject to the provisions as to appeal in this section contained, be final.

(3) Any person whose application for the issue of a trading licence has been refused by a licensing authority may appeal to a Judge who may confirm the refusal appealed against or may make such other order as he shall deem just, and any order so made shall be binding on the licensing authority.

(4) Any person who makes a false declaration for the purpose of obtaining a trading licence shall be guilty of an offence and shall on conviction be liable to imprisonment for six months and to a fine of one thousand dollars.

In any proceedings for an offence under this subsection in respect of a false declaration of the age of an applicant for a trading licence the onus shall be upon the person accused of such offence to prove that at the time when he applied for such licence his age was eighteen years or over.

Exemptions.

9. (1) The businesses specified in the Third Schedule to this Ordinance shall be exempted from the operation of this Ordinance.

*(2) In addition to the powers contained in section 16 the Minister with the concurrence of the State Minister responsible for finance may exempt any business from the operation of this Ordinance or reduce the fees payable under this Ordinance either generally or specifically or in any area for such period as to him may seem fit.

Surrender of trading licence.

10. (1) When a trading licence is surrendered, then –

- (a) if the licence has six months or more to run, one-third of the fee paid shall on application be returned to the licensee;

* See Notification – Reduction of Fee, Vol. V of 1953 Revised Edition, p.777.

- (b) if the licence has less than six and more than three months to run, one-sixth of the fee paid shall on application be returned to the licensee.

(2) This section shall not apply to a licence to carry on the business of a commercial traveller or insurance salesman.

Transfer of trading licence.

11. A trading licence may with the approval of and on endorsement by the licensing authority and on payment of the prescribed fee be transferred to different premises or to different ownership.

Exhibition and production of trading licence.

12. (1) Every trading licence or certified copy thereof shall be exhibited in a conspicuous place on the premises in respect of which it is in force.

(2) Any administrative officer and any police officer may enter upon any premises required to be licensed under this Ordinance for the purpose of inspecting the licence relating to such premises or demanding its production.

(3) Any person who fails to exhibit his licence as required by subsection (1) or refuses entry to any person authorised by subsection (2) to enter for the purposes therein described or refuses to produce his licence to any such person, is guilty of an offence against this Ordinance.

Certified copies of trading licences.

13. A licensing authority on being satisfied that a trading licence issued by him has been lost or destroyed or is in respect of a licence applicable to any place or places in Sabah and not related to one particular place of business may, on payment of the prescribed fee, issue certified copies of such licence to the licensee in respect of each place of business in respect of which it is in force.

General penalties.

14. Any person who contravenes or fails to comply with any of the provisions of this Ordinance for which no penalty is specifically provided shall on conviction be liable to a fine of five hundred dollars.

Power to disqualify for trading licence upon conviction of certain offences.

15. When any person is convicted of any offence under the provisions of this Ordinance or of any offence in relation to the conduct of his business involving dishonesty or fraud or the use of false weights or measures, or in breach of any written law relating to price or food control the court may, in addition to any other penalty, cancel the trading licence of the person so convicted with effect from such date as the court may consider necessary to enable him to dispose of his existing stocks, and may debar him from obtaining another licence for such period as the court may determine.

Variation of Schedules.

*16. The Minister with the concurrence of the State Minister responsible for finance may add to, alter or amend the provisions of the Schedules to this Ordinance or any of them.

Rules.

+17. The Minister with the concurrence of the State Minister responsible for finance may make rules prescribing all matters which by this Ordinance are required to be prescribed, the forms to be used and the duties of administrative officers and licensing authorities, and any other matters as to which it may be expedient to make rules for the purposes of and under the provisions of this Ordinance.

* See G.N.S. 77/54, S. 102/54, S. 161/55, S. 37/59, S. 82/59, S. 75/60 and S. 113/63.

+ See Trades Licensing (Forms) Rules, Vol. V of 1953 revised Edition, p.774.

FIRST SCHEDULE.

(Section 7(3))

1.	A licence to carry on the business of a building contractor at any place or places in Sabah: Where the total number of persons employed exceeds 25 at any one time, the annual fee of	...	\$25.00
	Where the total number of persons employed does not exceed 25 at any one time, the annual fee of	...	\$25.00
2.	A licence to carry on the business of a trader, including importation, for each place of business, the annual fee of	...	\$25.00
3.	A licence to carry on the business of a trader not including importation, for each place of business the annual fee of	...	\$25.00
4.	(1) A licence to carry on the business of shipping (other than as classified in the following items) or air transport at any place or places in Sabah the annual fee of	...	\$25.00
	(2) A licence to carry on at any place or places in Sabah, the business of shipping in respect of vessels engaged only in the carriage coastwise of passengers or cargo the annual fee of	...	\$25.00
	(3) A licence to carry on the business of an agent of a shipping or air transport business which has no place of business in Sabah at any place or places in Sabah including branches and sub-agencies at places where the principal has no place of business the annual fee of	...	\$25.00
	For two or more such agencies the annual fee of	...	\$25.00
5.	A licence to carry on the business of lighterage or stevedoring at – Jesselton, Sandakan, Labuan or Tawau the annual fee of	...	\$25.00
	Other areas the annual fee of	...	\$25.00
6.	A licence to carry on at any place or places in Sabah the business of a commercial traveller or insurance salesman the annual fee of	...	\$25.00

	Provided that a licence may be issued to a commercial traveller or insurance salesman not resident in Sabah for any one visit a fee of	...	\$25.00
7.	(1) A licence to carry on the business of a remittance shop for the purpose of making remittances within the Sterling Area, and to China by holders of permits in Form "A" issued by the Controller of Foreign Exchange under Finance Regulations 5 and 13 the annual fee of	...	\$25.00
	(2) A licence to carry on the business of a remittance shop for the purpose of making remittances within the Sterling Area, and to China by holders of permits in Form "B" issued by the Controller of Foreign Exchange under Finance Regulations 5 and 13 the annual fee of	...	\$25.00
	(3) A licence to carry on the business of a remittance shop for the purpose of making remittances within the Sterling Area the annual fee of	...	\$25.00
8.	A licence to carry on any other business the annual fee of	...	\$25.00
9.	Certified copies of licences (section 13)	...	\$2 each
10.	Any transfer of a licence (section 11)	...	\$2 each

SECOND SCHEDULE.

(Section 7(3))

The Town Board Areas of Jesselton, Sandakan, Tawau and Labuan and the townships of Beaufort, Kudat, Papar, Tenom and Tuaran	}	Full fee
All other Townships declared under the provisions of section 3 of the Local Government Ordinance, 1961, and section 3 of the Municipal and Urban Authorities Ordinance (Cap. 162)	}	Full fee
All other areas	...	Full fee

THIRD SCHEDULE.

(Section 9(1))

- (1) The business of a planter, farmer, stock raiser, market-gardener or dairyman, who deals only in the produce of his own estate.
- (2) The business of any hawker who holds a licence as such under any law for the time being in force, or of a stallholder in any market declared under any Sanitary or Rural Board By-laws.
- (3) The business for which a licence is required under any law for the time being in force relating to the sale of intoxicating liquor, where this business is the sole business conducted on the premises.
- (4) The business of carrying passengers or goods for hire or reward by vehicles licensed under the Road Traffic Ordinance.
- (5) The business of mining under the authority of any licence or lease granted under any law for the time being in force.
- (6) Domestic industries carried on exclusively by natives, and any business carried on by natives at native markets.
- (7) Any business carried on with boats of under ten tons.
- (8) The business of a pawnbroker under the authority of any law for the time being in force.
- (9) Special exemptions granted by the Minister to any trade or class of traders or districts.
- (10) Any business licensed as such under the Rubber Dealers Ordinance.
- (11) The business of a cinema proprietor licensed as such under the provisions of any written law relating to such business.
- (12) The business of extracting timber under the authority of any grant or contract made or of any licence or concession granted under any law for the time being in force.
- (13) The selling of books, pamphlets or stationery by any religious body or school authority provided that the licensing authority is satisfied that such selling is not for profit.

- (14) The business of Turtle Egg Collection.
- (15) Any Co-operative Society other than a Co-operative Retail Store which sells goods to persons who are not members of the Society.
- (16) Banking business carried on by a bank licensed under the Banking Ordinance, 1958.

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