



Tonga

TALAMAHU MARKET REGULATIONS 1995

GS 10A of 1995

MARKETS ACT

[20th December 1995]

IN EXERCISE of the powers conferred on him by sections 3 and 5 of the Markets Act (Cap. 49), the Minister of Agriculture and Forests makes the following regulations: —

1 Short title

- (1) These Regulations may be cited as the Talamahu Market Regulations 1995.

Application

- (2) These Regulations apply only to the Talamahu Market.
- (3) The provisions of these Regulations supersede the provisions of the Market Regulations (Cap. 49) in the event of any inconsistency.

2 Interpretation

In these Regulations, unless the context otherwise requires —

“**Act**” means the Markets Act (Cap. 49);

“**attendant**” means any servant of the market authority appointed to carry out duties in the market precinct;

“**market**” means the Talamahu Market;

“**market authority**” means the market authority for Talamahu Market, operating under the Act;

“**market manager**” means the market manager appointed by the market authority, and includes any attendant performing for the time being a function of the market manager;

“**market precinct**” means the property (including both land and buildings) that is made available for the market;

“**produce**” means fresh fruit and vegetables, grains, root crops, and other goods of that nature;

“**sell**” means to engage in sale, barter, or exchange, or to agree to do the same, or to offer or expose for sale, barter or exchange, or to keep or have in possession for sale, barter or exchange;

“**stall**” means any bench and open stall space, wire cage area, lock-up enclosed space or canteen in the market;

“**stallholder**” means a person granted a license by the market authority to use a stall.

3 Market manager

The market shall be under the immediate management and control of a market manager appointed by the market authority. All persons using or being within the market precinct shall obey all reasonable directions given by the market manager for the purpose of observing the good order and cleanliness of the market.

4 Hours of operation

- (1) The market shall be open for business during such times as the market authority may determine from time to time, but the market shall not be open for business on a Sunday.
- (2) Until otherwise so determined by the market authority, the market shall operate as follows:

Opening hours on public holidays

- (a) On normal days the market shall open for business during the following times —

Monday to Thursday	from 8 a.m. to 6 p.m.
Friday .	from 8 a.m. to 9 p.m.
Saturday	from 6 a.m. to 5 p.m.
- (b) Close on public holidays except —

- (i) if a Friday open only for delivery;
- (ii) if a Saturday open for business as on normal Saturdays;

Provided that the market shall be closed on 25 and 26 of December, 1 January and Good Friday.

- (3) No person may enter or remain in the market precinct outside business hours without the authority of the market manager.

5 Delivery of goods include times if original 6.

- (1) All goods intended for sale in the market shall be delivered there only during such times as the market authority may determine from time to time.
- (2) Until otherwise determined by the market authority, goods for sale shall be delivered to the market during the following times:

Monday to Thursday.....from 6 a.m. to 8 a.m.
and 6 p.m. to 8 p.m.

Fridayfrom 7 a.m. to 8 a.m.
and 9 p.m. to 12 midnight

Saturdayfrom 4 a.m. to 7 a.m.

6 Goods to be sold in specific areas

The market manager may designate specific areas of the market precinct where particular types of goods, such as live animals, may be sold; if so, no goods of such type may be sold elsewhere in the market precinct.

7 Inspection of produce and other goods.

- (1) All produce for sale through the market is subject to inspection by the market manager.
- (2) All fruits and vegetables must be fresh, clean and in good condition for human consumption when brought to the market.
- (3) Any fruits or vegetables which are decayed, dirty or in poor condition for human consumption will be subject to rejection by the market manager.
- (4) The market manager may also remove, or cause to be removed by the stallholder or a third party, any other goods from the market precinct that are found to be decayed, dirty or in poor condition.

8 Unsold goods

- (1) Goods unsold by stallholders at the close of the day may be left in the market precinct with the permission of the market manager but at the owner's risk, and any goods so left without such permission may be removed by the market manager and disposed of in such a manner as the market manager may consider reasonable.
- (2) Goods in wire cages or lock-up shops may be left there unless doing so would cause risk to health or property.

9 Health requirements

- (1) Any seller of cooked foods, confectioneries, or soft drinks for sale in the market must be medically examined for each quarter of the year and be issued a certified health certificate, signed by a medical officer.
- (2) Such health certificates will be presented to and retained by the market manager for such time as the examined person remains working within the confines of the market precinct.
- (3) Any person who has not been medically examined and who does not produce a certified health certificate as provided for under paragraph 1 of this regulation shall not work in the market or be engaged in the selling of goods there.
- (4) In addition to the foregoing, the market manager may require any person in or wishing to enter the market precinct to produce a current medical certificate, renewed that day where necessary, if the market manager has reasonable grounds to believe that such person might be sick or otherwise present a health risk to others in the market precinct.

10 Use and allocation of stalls.

- (1) Subject to the provisions of regulation 20(3), no person may sell any goods in the market except at a stall allotted to him under a licence issued by the market authority and during the hours that the market is open for business.
- (2) The allocation of stalls in the market shall be in the discretion of the market authority, whose decision shall be final, in accordance with general rules published in the Gazette and posted at the market.
- (3) Until otherwise prescribed by the market authority, the allocation of stalls at the market shall be carried out as follows:
 - (a) Bench and open stalls on the ground floor of the building are to be available for selling for a period of no more than one day, and only for sellers of produce.

- (b) Wire cages are to be available for selling for periods of from one month to three months. A licensee of a wire cage may apply up to one month in advance of the expiry date of the existing licence for renewal of that licence. The market authority is not obliged to renew any such licence, but such renewal shall not unreasonably be denied.
- (c) Lock-up shops are to be available for selling for periods of one year to three years.

A licensee of a lock-up shop may apply up to three months in advance of the expiry date of the existing licence for renewal of that licence. The market authority is not obliged to renew any such licence, but such renewal shall not unreasonably be denied.

- (4) The market authority's power to assign stalls extends throughout the market precinct including all overflow areas located outside the actual building or other structures of the market. Pursuant to that power, the market manager may assign specific spaces outside the building or other structures (but within the market precinct) as bench and open stalls whether or not any physical benches or other facilities are located there.

11 Applications for licences.

- (1) The market authority may prescribe from time to time the requirements and procedures for applying for licences.
- (2) Until otherwise prescribed by the market authority, the requirements and procedures for applying for licences shall be as follows:
 - (a) For bench and open stalls, whether for the sale of produce or for the sale of other goods, no written application is required, but the applicant may be required to provide to the market manager information about the items of produce or other goods and about the person(s) selling them.
 - (b) For wire cages, lock-up shops and canteens, a written application is required to be made on the Form in the Schedule to these Regulations.

12 Grant of licences

- (1) Decisions on granting or refusing to grant licences shall be made —
 - (a) in the case of bench and open stalls, by the market manager;
 - (b) in the case of wire cages, lock-up shops and canteens, by the market authority.

- (2) The market manager or the market authority may refuse to grant a licence for the use of a stall in the market on any of the following grounds —
- (a) the applicant has not paid, Or is unable to pay, the applicable fees or charges;
 - (b) the market manager or the market authority has reason to believe the proposed use is unsuitable or will not encourage a favourable environment for business persons in the market;
 - (c) the applicant has a stallholding or has an interest in a stallholding elsewhere in the market, and other qualified applicants would be prejudiced by the granting of the requested licence; or
 - (d) the, applicant has substantially failed to comply with any terms of a relevant licence or to comply with these Regulations.

13 Register of licences

The market manager shall keep a register of all licences issued.

14 Amendment of licences.

- (1) The market manager or the market authority may amend a licence —
- (a) if it contains a clerical mistake or an error arising from any accidental slip or omission, or a material miscalculation of figures, or a material mistake in the description of a person, thing or property referred to in the licence; or
 - (b) at the request of the licensee, if the amendment would be consistent with the market authority's rules and procedures on granting of licences.
- (2) The market manager shall note in the register any amendment of licences.
- (3) The market manager shall give notice to the licensee of any amendment to the licence.

15 Cancellation of licences.

- (1) The market authority may cancel a licence
- (a) if the market manager considers that there has been a material misstatement or concealment of fact in relation to the application for the licence, or a substantial failure to comply with the conditions of the licence or of these Regulations, or a material mistake in relation to the grant of the licence, or a material change in circumstances which has occurred since the grant of the licence; or

- (b) at the request of the licensee.
- (2) The market manager shall note in the register any cancellation of licences.
- (3) The market manager shall give notice to the licensee of the cancellation of the licence and the reasons for the cancellation.
- (4) Where the market authority determines that the licensee is entitled to a partial refund of the fee, such refund shall be made.

16 Fees and Charges

- (1) The fees for stalls in the market shall be as follows —
 - (a) For ground floor bench stalls, \$2.00 per day;
 - (b) For produce sales on first floor-bench stalls, \$2.50 per day;
 - (c) For fair market sales on first floor bench stalls, \$4.00 per day;
 - (d) For overflow sites, \$1.50 per day;
 - (e) For wire cages, \$120.00 per month;
 - (f) For ground floor lock-up stores \$200.00 per month;
 - (g) For first floor lock-up stores, \$160.00 per month; and
 - (h) For canteens, \$400.00 per month.
- (2) In the case of a lock-up shop or canteen, in addition to the fees referred to in paragraphs (1) (f, g & h) of this regulation and additional charge may be established in the form of a fixed rate or may be determined through an auction or tendering procedure.
- (3) In addition to the fees and charges referred to in paragraphs (1) and (2) of this regulation, the market authority may from time to time impose charges for the provision or use of electricity, water, sanitation, and other services in the market to each stall.
- (4) The fees for the licences for stalls in the market, as referred to in paragraph (1) of this regulation, shall be paid —
 - (a) in the case of bench and open stalls, at the beginning of the period for which the licence is granted; and
 - (b) in the case of wire cages, lock-up shops and canteens, on or before the first day of each month during which the licence applies.
- (5) All charges for stalls, as referred to in paragraphs (2) and (3) of this regulation, shall be paid in a manner prescribed from time to time by the market authority.

17 Outstanding fees or charges.

No person may occupy or use a stall so long as any fees or charges which are due and payable by him for the use of that stall are outstanding.

18 Alteration of stalls.

No person may make any alteration to a stall or exhibit any notice thereon or introduce any fittings, fixtures, furniture or impediments of any kind without the permission of the market authority. The market manager may remove, or cause the stallholder or a third party to remove, any such thing so made or introduced without such permission.

19 Other matters and conditions.

Every licence is subject to the condition that the licensee —

- (i) is responsible for the general cleanliness of the stall and its immediate vicinity, for the proper maintenance of the stall in sound condition and ready for the next stallholder;
- (ii) is not permitted to enter the market precinct before delivery times prescribed in regulation 5;
- (iii) shall vacate the market precinct by the closing hour prescribed in Regulation 4;
- (iv) is subject to having his licence withdrawn and the licensee may be ejected from the market precinct for failure to comply, with these Regulations; and
- (v) may not transfer to another person the right to use a stall without the consent of the market authority; but that consent shall not unreasonably be withheld.

20 Additional rules for canteens.

- (1) A licensee using a stall for a canteen shall operate the canteen in accordance with any public health or food regulations and with these Regulations.
- (2) A licensee using a stall for a canteen shall be responsible for —
 - (a) the provision of suitable garbage containers;
 - (b) the maintenance of the canteen draining system and the regular cleaning of the grease traps;
 - (c) making good all breakages and/or damage caused to the building and/or fitments provided by the market authority;

- (d) placing all filled garbage containers at the collection point as indicated by the market manager, and returning them to the Canteen after the garbage has been collected;
 - (e) the day-to-day cleanliness of the canteen area and immediate surroundings;
 - (f) the provision to the public, on payment, of hygienically served takeaway food items, soft drinks “and beverages only (together with confectionery, and smoking requisites), but not full restaurant-type meals;
 - (g). the provisions of necessary equipment to facilitate the above service to the public;
 - (h) the provision of facilities for inspection at all reasonable hours by authorised personnel of the market authority and/ or Health authorities; and
 - (i) ensuring that the public do not pass through the canteen in either direction at any time and thereby create an additional entrance to the market.
- (3) A canteen shall be open during normal operating hours of the market but may operate, from its outside counter, beyond those normal operating hours for no more than two hours immediately before opening time of the market and two hours immediately after closing time of the market.
- (4) A canteen shall not be open on Sundays.

21 Notice Board.

- (1) Anything prescribed, determined or required by the market authority under a provision of these regulations may be notified for public information by exhibiting a copy of it prominently on a notice board provided by the market authority for that purpose within the precincts of the market.
- (2) The market authority shall cause a copy of these Regulations to be exhibited on that notice board.

22 Rules.

Any person using the market is subject, to the following rules —

- (1) No person who is suffering from an infectious or contagious disease may make use of the market, and in this respect the market manager may request a medical certificate as set forth in Regulation 9(4).

- (2) No person may bring a dog into the market precinct or permit one to remain there.
- (3) No person may behave in a disorderly, offensive, obscene or insulting manner, or obstruct or interfere with any person lawfully exercising rights or performing duties within the market.

23 Offence and Penalty.

A person who contravenes any of the provisions of these Regulations commits an offence and is liable on conviction to a fine not exceeding \$100.00 and in default of payment to imprisonment for any term not exceeding 1 month.

SCHEDULE

APPLICATION FORM FOR WIRE CAGE/LOCK-UP SHOP/CANTEEN* LICENCE

(Regulation 11(2))

TO THE TONGATAPU MARKET AUTHORITY

Iof
(name of applicant) (address of applicant)

hereby make application for a Wire Cage/Lock-up Shop/Canteen* licence for Talamahu Market.

Description of goods to be sold are as follows: —

Other relevant information: —

I have complied with the relevant regulatory requirements (e.g. registration with the Ministry of Health for selling food under section 34 of the Public Health Act 1992).

My trading record is as follows: —

I understand that if I am applying for a lock-up shop or canteen licence, the market authority may require as an additional part of the application process that I participate in an auction or tendering procedure, or indicate willingness to pay an additional upfront fixed charge for the granting of the licence for a lock up shop or canteen.

(* delete as required)

.....
Signature of Applicant

Made at Nuku'alofa this 14th day of December 1995.

Vaea
Minister of Agriculture and Forests