

JOINT REGULATION

No. 18 of 1978

TO PUT INTO EFFECT the Resolution of the Representative Assembly No. 14 of 1978, passed the 5th day of December 1978, relating to business licences.

MADE by the Resident Commissioners under the provisions of Articles 2(2) and 7 of the Anglo-French Protocol of 1914 and Articles 28(3) and 30 of the Exchange of Notes made at London the fifteenth day of September 1977, between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic.

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| Scheduled Resolution put into effect. | 1. The Resolution of the Representative Assembly No. 14 of 1978, set forth in the Schedule, is hereby put into effect. |
| Repeal. | 2. Joint Business Licences Regulation No. 28 of 1973 is hereby repealed without prejudice to any proceedings which may be taken under the said Regulation immediately prior to its repeal. |
| Short title and Commencement. | 3. This Joint Regulation may be cited as the Business Licences Regulation 1978 and shall come into operation on the first day of January 1979. |

ENACTED at Vila this 27th day of December, 1978.

The Inspector-General on special duties, conferred with the powers of the Resident Commissioner for the French Republic in the New Hebrides.

Her Britannic Majesty's Resident Commissioner.

J.J. ROBERT

A.C. STUART

RESOLUTION NO. 14 OF 1978

relating to business licence fees.

The Representative Assembly of the New Hebrides, at its sitting on the 5th day of December 1978 hereby resolves and decides, in accordance with Article 23 of the Exchange of Notes of the fifteenth day of September 1977, to adopt the following measures -

Interpretation. 1. In this Regulation unless the context otherwise requires -

"business" means any occupation (except illegal occupations or occupations specified in the Second Schedule) carried on for profit, provided that a person shall not be deemed to carry on a business in respect of which his sole gain is by way of salary or wages or salary or wages plus commission;

"proprietor" means the owner of a business or any natural person or corporation carrying on a business within the New Hebrides on his own account, in association with others or on behalf of persons outside the New Hebrides;

"premises" includes buildings, ships, vehicles or other places where a business is carried on, together with any place which constitutes a necessary annexe to the principal place of business;

"person" includes reference to a corporation as well as to a natural person;

"Government" means the New Hebrides Government

Business
licences to be
taken out.

2. (1) Every proprietor shall take out annually a licence which shall expire on the 31st day of December in each year.

(2) Such licence shall be issued by the Government upon payment of the requisite fee in accordance with the procedure prescribed by section 4 below.

(3) Such licence shall not be transferable.

Applications
for licence.

3. (1) Applications for licences or for renewal of existing licences shall be made in writing in such form as may be prescribed by the Government, or where the proprietor is illiterate applications may be made verbally in the presence of two witnesses.

(2) Applications for licences or renewal of licences shall be acknowledged in writing forthwith by the person to whom the application is made.

Fees.

4. (1) Subject to the provisions of this section the fee payable on the issue of a licence shall be the sum prescribed in New Hebrides francs in the First Schedule to this Regulation or the equivalent thereof in Australian dollars at the official rate of exchange.

(2) The fee shall be payable in the case of the renewal of a licence on the 1st day of January of each year or in respect of a new licence on the 1st day of the month in which a business is newly established. The fee together with any increases that may be payable thereon in accordance with subsection (4) of this section shall be recoverable by the Government as a civil debt.

(3) Except as otherwise authorised by the Government, the fee shall be paid within the

following time limits -

- (a) for a business carried on within the town limits of Port-Vila and Luganville - within one month from the date when the fee is payable;
- (b) for a business carried on in any other place - within three months from the date when the fee is payable;

(4) If the fee has not been paid in full within the time limits provided in subsection (3) of this section, that part of the fee remaining unpaid shall be increased by ten per centum for each month or part thereof during which the fee is unpaid.

(5) A licence shall be required in respect of each and every premises at which a business is carried on, provided that one licence shall suffice for premises which are immediately adjacent and inter-communicating.

(6) Where a proprietor carries on more than one business in the same premises, he shall take out a licence in respect of each business:

Provided that where by virtue of the foregoing provisions of this subsection a proprietor is liable to pay more than one licence fee he shall pay the fee prescribed in the First Schedule to this Regulation for the licence attracting the highest fee applicable thereunder and shall pay two-thirds of the fee prescribed in the said Schedule for each other licence, which lesser fee shall be rounded up to the nearest 1.000 FNH.

And provided further that in any case where a proprietor is liable to pay more than one licence fee as aforesaid and where any business is of such minor extent that it is only incidental to another business or a necessary adjunct thereto, such proprietor shall be exempted from the obligation to take out a licence or pay any fee therefor.

(7) Where two or more proprietors carry on a business independently of each other at the same premises a licence shall be taken out in respect of each business.

(8) Where a licence is taken out for a newly established business for part of a year only the fee payable shall be proportionate to the period covered by the licence and for the purpose of the assessment of that proportion any part of a month shall count as a whole month.

(9) Where during the course of a year the proprietor changes the nature or extent of his business thereby rendering him liable to the payment of a different licence fee, he shall forthwith so inform the Government and shall pay or receive such adjustment of fee as may be appropriate.

(10) A licence may be surrendered to the Government at any time and thereupon the proprietor shall be entitled to a proportionate refund of the licence fee commencing from the first day of the month next following.

Disputes.

5. (1) Any question or dispute as to the application of this Regulation shall be submitted in writing, within one month from the date of payment of the sum stated to be due by the Government, for decision by the Government.

(2) Any person who is aggrieved by the decision of the Government may, within a period of one month from the date on which the decision has been notified to him, appeal to the Business Licences Arbitration Commission.

Provided that where a decision has not been notified to him within a period of one month from the date of his submission, he may, within a period of one further month, appeal to the aforesaid Business Licences Arbitration Commission.

Licence to be displayed.

6. Every licence shall be at all times displayed prominently by the proprietor on the premises to which it relates.

Power of search.

7. Any officer of the Ministry of Finance so authorised by the Government and the Procurator-General may without warrant enter and search premises for the purpose of ascertaining the category of the business and the identity of the proprietor thereof. The proprietor shall make available for inspection on demand by any officer as aforesaid books, documents, or records relating to the business, and copies thereof or extracts therefrom may be made, so, however, that the provisions of this section shall not derogate from any privilege or immunity arising with respect to such premises, proprietor, books, documents or records under the provisions of any law applicable thereto within the New Hebrides.

Confidentiality of information.

8. Information relating to the business of any person obtained under the provisions of section 7 above shall be treated as strictly confidential and shall not be disclosed save for the purposes of any prosecution with respect to the business.

Adjustment of fees.

9. (1) Where the Government is of the opinion that the main purpose or one of the main purposes for which any transaction was effected was the avoidance or reduction of liability to any licence fee, it may with respect to any business or businesses make such adjustment as respects liability to any licence fee as it considers appropriate to avoid or prevent such avoidance or reduction or liability to any licence fee which would otherwise be effected by the transaction or transactions.

(2) Any person aggrieved by any adjustment made by the Government under the provisions of subsection (1) of this section may appeal to the Business Licence Arbitration Commission against the same in accordance with the provisions of subsection (2) of section 5 above.

Penalties.

10. (1) Any person who fails to pay a requisite licence fee including any increase imposed in accordance with section 4 above, within a period of six months from the date when the fee is payable shall be guilty of an offence and shall be liable on conviction to a fine not exceeding FNH 100.000.

(2) Any person who fails to comply with the requirements of section 6 above shall be guilty of an offence and shall be liable on conviction to a fine not exceeding FNH 25.000.

(3) Any person who obstructs the proper exercise of the powers of an officer under section 7 above shall be liable to a fine not exceeding FNH 50.000 or to a term of imprisonment not exceeding three months or to both such fine and term of imprisonment.

(4) Any person who knowingly makes a false declaration for the purposes of evading or attempting to evade all or any part of a licence fee payable under this Regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding FNH 200.000 or to a term of imprisonment not exceeding one year or to both such fine and term of imprisonment.

(5) Where any offence under subsections (3) and (4) of this section has been committed by a corporate body of persons every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of that body corporate or was acting or purporting to act in any such capacity shall also be guilty of the offence unless he proves that the offence was committed without his consent or knowledge and 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 and in all the circumstances.

Rules.

11. The Government may make Rules for carrying this Regulation into effect.

FIRST SCHEDULE

AR2/D/78-14

1. The rates for business licence fees shown in the table which follows are the basic rates.
2. The basic rates shall be payable -
 - (a) for those categories of business which are not marked with an asterisk*;
 - (b) for all categories of business marked with an asterisk*, except D3, where the premises thereof are situated in the Port-Vila or Luganville urban areas;
 - (c) for all businesses of category D3 where the premises thereof have a frontage on the road:
 - from the wharf road roundabout through the town centre as far as the junction of the Mele and Malapoa roads, known as Rue Higginson (in Port Vila);
 - from the junction of the wharf road and the road leading to the District Agencies as far as the Sarakata Bridge (in Luganville).
3. Ninety percent (90%) of the basic rates prescribed shall be payable for all businesses of category D3 where the premises thereof are in Port-Vila and have a frontage in the following streets:
 - Rue Fleming;
 - Rue Emile Mercet, between Rue Higginson and the junction with Rue de Paris;
 - Rue Carnot, between Rue Higginson and the junction with Rue de Paris;
 - Rue Pasteur, between Rue Higginson and the junction with Rue de Paris;
 - Rue Bougainville, between Rue Higginson and the junction with Rue de Paris;
 - Rue de Paris.
4. Eighty percent (80%) of the basic rates prescribed shall be payable for all businesses of category D3 where the premises thereof are situated in the Port-Vila or Luganville urban areas, except for those businesses to which paragraphs 2(c) and (3) above apply.
5. Twenty percent (20%) of the basic rates prescribed shall be payable for those categories of business marked with an asterisk* if the premises thereof are situated in a rural area.

CLASSIFICATION OF BUSINESS LICENCE:	NATURE OF BUSINESS	LICENCE FEE (NEW HEBRIDEAN FRANCS)	REMARKS
1	2	3	4
<u>CLASS A</u> <u>MINING AND QUARRYING</u>			
A1	Mining for minerals	50.000	Includes the extraction, dressing, smelting, crushing, etc. and the beneficiation in any way of any mineral or mineral ore other than stone, gravel, clay or sand.
A2	Quarrying and other mining	50.000	Includes the extraction dressing, crushing or otherwise treating to render marketable stone, gravel, clay or sand.
<u>CLASS B</u> <u>MANUFACTURING INDUSTRIES AND TRADES</u>			MANUFACTURING MEANS ANY PROCESS WHICH TRANSFORMS INORGANIC OR ORGANIC SUBSTANCES INTO NEW PRODUCTS.
B1	Abattoirs, meat packing	50.000	Includes slaughtering, dressing or packing animals, and poultry for meat; the processing, curing, smoking, salting, pickling and packing in airtight containers or deep-freezing of meat products including the manufacture of meat soups; the manufacture of lard and other edible animal fats.

B2	Canneries	50.000	Includes canning and bottling (in air-tight containers) of fruit and vegetables; the preservation by dehydration or quick freezing of fruits and vegetables; the manufacture of dried fruits and vegetables, preserves, jams, jellies, pickles and sauces and canned soups (other than meat soups); and canning, preserving, processing of fish, fish products and crustacea. (Meat canneries fall within Class B.1)
B3	* Oil mills	50.000	Includes the extraction or production of all vegetable, nut, fish oils and the production of residual meals and cake; the rendering of, refining and hydrogenation of oils and fats (other than those derived from animals).
B4	Bakeries and confectioneries	30.000 *	(i) The manufacture of bread, cakes, pies, pastries and similar perishable bakers wares; biscuits and similar dry bakery products, spaghetti, noodles and similar products. (ii) Permits the sale (retail) without D3 licence through one outlet only.
B5	Manufacture of other food products elsewhere not classified.	35.000	Including the manufacture of prepared animal foods, except those specified in Class B3.

B6	Distilleries	50.000	Distilling, rectifying and blending of alcoholic liquors; the distilling of ethyl alcohol for all purposes (the manufacture of alcohol other than ethyl alcohol requires a licence under Class B12); the manufacture of wines, cider, perry and other fermented beverages.
B7	Breweries	60.000	The manufacture of malt and malt liquors such as beer, ale, porter and stout. (Bottling not involving manufacture is licensed under Class D1).
B8	Manufacturers and bottlers of cordials, carbonated waters and other non-alcoholic beverages.	50.000	
B9	Manufacturers of tobacco.	50.000	The manufacture of all tobacco products.
B10	Manufacturers of wood, wood products, including furniture -		
	(a) Wood	60.000	
	(b) Furniture	60.000 *	Jobbing Carpenters are included under Class C1 or Class C2 - Artisans.
	(c) Artifacts	10.000 *	
B11	Manufacturers of paper, paper products, printers and publishers	50.000	

B12	Manufacturers of chemicals, chemical products, rubber and plastics	50.000	Includes the manufacture of industrial chemicals, fertilisers, pesticides, paints, varnishes and alcohols (except ethyl alcohol) etc. synthetic or plastic materials, drugs and medicines, soap and cleaning preparations, and the manufacture of products of rubber.
B13	Shipbuilders and repairers:-		Ship and boat yards engaged in building, repair and specialised painting and caulking of all types of ships, boats, barges, lighters.
	(a) employing permanently less than 12 persons	20.000	
	(b) employing permanently 12 or more persons	50.000	
B14	Manufacturers of wearing apparel -		Includes tailors, bootmakers (but not shoe repairers), milliners, dress-makers.
	(a) employing permanently less than 3 persons	10.000*	
	(b) employing permanently 3 or more but less than 12 persons	15.000*	
	(c) employing permanently 12 or more persons	25.000*	
B15	Jewellers	50.000	Includes the manufacture of clocks, watches and jewelry.
B16	Home manufacturers and purveyors of pies, meat balls, nems, cakes, sweetmeats and gamelles	5.000*	
B17	Other manufacturers not elsewhere classified	30.000	

CLASS C

CONSTRUCTION INDUSTRIES AND TRADES

C1

Contractors - building, earthwork, electrical, drainage, harbour and road construction etc.

- (a) employing less than 6 persons 20.000
- (b) employing 6 - 15 persons 40.000
- (c) employing more than 15 persons 80.000

- (i) General and special trade contractors primarily engaged on contract construction in the field of civil, electrical and structural engineering. Includes marine construction such as dredging, pile driving, underwater rock removal; land drainage and reclamation.
- (ii) The holder of a Class C1 licence who operates a quarry solely and exclusively for the purpose of his contracting business is exempted from the payment of the Class A2 licence fee (but not from obtaining the licence).

C2

Artisans working alone (or with up to two apprentices) - carpenters, bricklayers, electricians, decorators, jobbing builders, joiners, masons, painters, plumbers, welders, fitters, turners, mechanics etc.

5.000*

Artisans employing more than two apprentices are liable to obtain a licence under Class C1.

CLASS D

WHOLESALE AND RETAIL MERCHANDISE TRADES: HOTELS AND RESTAURANTS

D1

General Wholesaler where the total annual value of imports and exports is:

- (a) less than 5.000.000 FNH 175.000
- (b) 5.000.000 FNH or more but less than 10.000.000 FNH 250.000
- (c) 10.000.000 FNH or more but less than 50.000.000 FNH 350.000
- (d) 50.000.000 FNH or more 550.000

- (i) Wholesaling means the resale (without transformation) of new and used imported goods to retailers, industrial, commercial or professional users and to other wholesalers; includes acting as agents in buying merchandise for, or selling merchandise to such users, and further includes the export of local products.

(ii) A Class D1 licence applies to the sale wholesale or retail of merchandise of every description except motor vehicles, tractors and self-propelled machinery and spares therefor (other than tyres).

D2 Reserved

D3 General Retailer

40.000*

(i) Retailing means the resale (without transformation) of new and used goods to the general public for personal and household consumption or for utilization by shops, stores, business houses, etc.

(ii) A Class D3 licence applies to the retail sale of merchandise of every description including -

motor vehicles, tractors and self-propelled machinery and spares therefor new or used, which have been purchased locally.

D4	Petroleum dealer (retail)	40.000*	Permits the holder to sell retail petroleum, petroleum products, lubricating oils and greases, vehicle accessories and equipment but not spares (other than tyres).
D5	Butchers	40.000*	Permits the holder to sell only fresh, frozen, preserved, canned meats, fish, crustacea, poultry, and meat/fish/poultry products.
D6	Pharmacists and druggists	75.000	A Class D6 licence applies to the retail sale of drugs, medicines, medicinal and pharmaceutical preparations, medical and surgical appliances, sanitary wares, cosmetics, perfumes and toiletries of all kinds.
D7	Automobile dealer, where the annual value of imported vehicles is:		Permits the holder to distribute and sell motor vehicles of all kinds, agricultural machinery, tractors, road-making vehicles and machinery, boats, boat engines; vehicle, machinery spare parts and accessories (including accessories for boats).
	(a) less than 5.000.000 FNH	50.000	
	(b) 5.000.000 FNH or more	125.000	
D8	Hotels and Motels:		A separate licence under Class D9 is required for the operation of restaurant or cafe facilities on hotel or motel premises.
	(a) less than 12 rooms	20.000	
	(b) 12 to 24 rooms	50.000	
	(c) 25 to 50 rooms	75.000	
	(d) 51 to 100 rooms	100.000	
	(e) more than 100 rooms	150.000	

E7	Other services incidental to, or in support of transport storage or warehousing operations	40.000
E8	Local tour operators	10.000*

- (i) Includes such services as stevedoring (loading and discharging of ships), maintenance and operation of docks and wharves (wharfingers); the operation of salvage facilities; packing, crating and forwarding; shipping and travel agents etc.
- (ii) Operators of more than one service classified under this heading will be liable for only a single licence fee.
- (iii) The holder of a class E7 licence shall be exempted from payment of a class E8 licence.

CLASS F FINANCIAL INSTITUTIONS, INSURANCE AND REAL ESTATE COMPANIES AND BUSINESS SERVICES

F1	Monetary institutions:	
	(a) Commercial and trading banks	300.000
	(b) Savings banks, savings and loans societies, building societies	15.000*
	(c) Banking agencies	5.000
	(d) Cooperative Savings Bank	10.000*
F2	Financial Institutions, finance companies, credit institutions, trust and investment companies, security and commodity brokers and underwriters:	
		<u>Basic Fee</u>
	(a) where a principal place of business is maintained in the New Hebrides	70.000
	<u>Plus</u> for each expatriate permanent employee in excess of 6 persons	12.000
	(b) where a branch office only is maintained in the New Hebrides:	70.000

Expatriate employee means any employee recruited from outside the New Hebrides or coming outside the New Hebrides.

F3	Insurers:		A licence under F3 will only be issued in respect of a recognised insurance company which establishes a principal place of business in the New Hebrides.
	(a) writing life assurance only	15.000	
	(b) writing general accident and other risks	130.000	
	(c) writing all classes of insurance business	200.000	
F4	Insurance agents, brokers and representatives	50.000	(i) Applies to authorised agents and representatives of recognised insurance companies which have not established a principal office of business in the New Hebrides. (ii) The holder of a Class F3 licence is exempted from the payment of fees under Class F4 (but not from obtaining the licence) in respect of agencies etc. appointed elsewhere in the New Hebrides.
F5	Real estate agents, property developers and managers and the like	50.000	(i) Includes letting and operating real estate, including residential and commercial buildings on behalf of a third party; developing and subdividing real estate into lots including the development and sale of real estate on own account; real estate agents and brokers engaged in renting, buying, selling, managing and appraising real estate on a contract or fee basis; the lessors of real property other than the operators of hotels, motels, rooming houses and business premises who are licensed under Class D10.

(ii) Holders of a Class F5 licence who are themselves professionally qualified Land Surveyors or Valuers or who employ such professionally qualified persons, and who practise professionally as an independent service, require in addition a Class F8 licence and are liable for the fees payable under (a) or (b) of that Class whichever is appropriate.

F6	Legal practitioners - advocates, barristers, solicitors, attorneys-at-law, notaries public, conveyancers:	
	(a) practising alone:	50.000
	(b) for each partner, associate or assistant professionally qualified who is engaged in the business in the New Hebrides	50.000
F7	Accounting, auditing and book-keeping services - accountants, auditors:	
	(a) practising alone	50.000
	(b) for each partner, associate or assistant professionally quali- fied who is engaged in the business in the New Hebrides	50.000

Includes data processing and tabulating services whether provided as part of accountancy services or independently.

F8	Engineering, architectural and technical services, architects, consulting engineers, land surveyors, quantity surveyors, valuers, ship surveyors, geologists:	
	(a) practising alone	50.000
	(b) for each professionally qualified person engaged in the business in the New Hebrides	50.000
F9	Other business services not separately scheduled	30.000

Engineering, architectural and technical services carried on in association with manufacturing, construction or other activities are exempted: they are included in Class B or Class C licences as appropriate.

Includes such services as advertising, business machinery and equipment leasing, duplicating typing, stenographic, photocopying services, business management and marketing services etc; customs agencies, agencies not elsewhere classified.

CLASS G BUSINESS CONCERNED WITH THE PROVISION OF SOCIAL, RECREATIONAL AND PERSONAL SERVICES

G1	Medical and dental practitioners and opticians	50.000
G2	Masseurs and kinestherapists	20.000
G3	Midwives	10.000
G4	Male or female nurses and chiropodists	5.000
G5	Veterinary surgeons	30.000

Medical, surgical and dental practitioners working on their own account. Includes osteopaths, physiotherapists and opticians.

Applies to veterinaries working on their own account.

G6	Cinema and theatre operators	40.000*	
G7	Night-club and dance-hall operators; operators of similar places of entertainment.	50.000	(i) Includes establishments such as bowling alleys, billiard and pool rooms, swimming pools and similar indoor and outdoor recreational services available to the general public on payment of a fee or an admission charge. (ii) For night-clubs and dancing halls where alcoholic drinks are NOT sold, the fee shall be 25.000 FNH.
G8	Pleasure gardens, private bird parks, botanical gardens, zoo, camping grounds etc.	10.000	Applies to recreational services available to the general public on payment of admission charge.
G9	Riding schools, driving schools	10.000	
G10	Other institutions providing instruction in dancing, judo, yoga and similar recreational activities	10.000	
G11	Motor vehicle repair shops:		
	(a) employing permanently less than 6 persons	20.000	
	(b) employing permanently 6 - 15 persons	40.000	
	(c) employing more than 15 persons	60.000	
G12	Laundries, dry-cleaning and dyeing plants	20.000*	For launderers working alone see G18.
G13	Photographic studios	20.000	(i) Includes commercial photography, for advertising; publishing and other industrial uses; the developing and printing of films for the general public or for commercial purposes (other than for the motion picture industry).

(i)

(ii) Permits the holder to sell retail cameras and accessories, and photographic materials of all kinds.

G14	Barbers and beauty shops	15.000*	
G15	Miscellaneous repair services	5.000*	Includes cobblers, electrical repair shops, watch, clock and jewellery repairing, repair of typewriters, bicycles, household appliances; locksmiths, gunsmiths, upholsterers, cutlers etc. where the repair or renovation offered by the licensee constitutes an independent service.
G16	Owners of vending machines - per machine operated	10.000	
G17	Secretarial and typing schools	5.000	
G18	Other personal or household services not elsewhere classified	5.000*	Such services as turkish or sauna baths, message parlours, undertakers, launderers working alone, shopping services, domestic employment agencies, subscription libraries etc.

SECOND SCHEDULEEXEMPTIONS FROM LICENCES

1. Teachers and professors.
2. Artists, sculptors, engravers, designers.
3. Planters, market and other gardeners, stock breeders, vegetable and fruit hawkers, with the exception of those who are exporters of local products,
4. Artisanal fishermen.
5. Plantation stores, if conducted for the exclusive use of the labour of the plantation.
6. Masters, officers and crews of merchant or trading vessels unless they are engaged in business on their own account.
7. Non-proprietary clubs.
8. Religious missions and ministers of religion.