

SWEET SPRINGS PRORIETARY LIMITED

**FINAL REPORT
ON**

TRADE LICENSING REFORMS

PURCHASE ORDER NO.40323127/0

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PART I

1. EXECUTIVE SUMMARY

- 1.1 Business Botswana engaged Sweet Springs (Pty) Ltd to investigate the prevalence of non- requirements by Local Authorities when they consider applications for trade licences from the business community.
- 1.2 Business Botswana was further concerned that making applicants appear before a Licensing Committee has the potential to create fertile ground for subjectivity and unpredictability of trade licensing procedures and licence application outcomes.
- 1.3 Trade Licensing requirements under the Trade Act of 2008 were very onerous and applicants were made to appear before Licensing Committees for licence application hearings. Licensing Committees also required applicants to submit extraneous documentation in addition to those that were required under the Trade Act of 2008. This contributed to the country performing poorly on the Doing Business global scale because of the high costs of obtaining a trade licence and starting a business in Botswana.
- 1.4 In response, Government introduced progressive amendments through the Trade Act of 2019 and Industrial Development Act of 2019. New regulations were introduced and implementation commenced in June 2020. The following progressive changes were introduced:
 - a) Licensing Committees for both the Trade Act and Industrial Development Act have been abolished save for licensing businesses under the Liquor Act. However, Regional Appeals Boards have been retained to attend to queries from either licence applicants or officers issuing business licence and business registration certificates. Trade Licences and Business Registration Certificates are now issued over the counter without reference to any Licensing Committee.

- b) Trade licences are now issued only to businesses that pose public health and safety risks such as restaurants and those dealing in chemicals or the wellness of the public. In terms of the Trade Regulations of 2020, these activities are required to present satisfactory environmental, health and zoning reports showing compliance with set requirements in order to be issued with trading licences.
- c) Ten (10) business activities have been identified as health and safety concerns and are thus issued with **‘trading licences’**. All other thirty five (35) trade activities listed in the Trade Regulations of 2020 that do not sell prepared food and chemicals or provide health services are not required to submit environmental, health and zoning reports and are, therefore, issued with **“business registration certificates”**.
- d) The Trade Act of 2019 provides that after duly notifying, and having been registered by the relevant Local Authority, a business can commence activities prior to being issued with a business licence or registration certificate. This means that all start-ups are, in terms of section 13 of the Trade Act of 2019, given 30 days grace period to have submitted documents for issuance of trade licence or business registration certificate post operation.
- e) Under the Trade Act of 2019, the annual licence renewal system has been abolished. Business licences or registration certificates are for an indefinite period and a business is now::
 - (i) required to only pay an annual fee for its licence or registration certificate; and
 - (ii) not required to submit environmental, health and zoning reports or proof of payment of rates, etc, which were previously required by Local Authorities before renewal of a licence.

- f) Under the new dispensation, the core legal requirements are listed and specified in the application forms for a business licence and/or registration certificate to ensure consistency and uniformity across all Local Authorities.

2. FINDINGS

- 2.1 On the basis of the review of responses received from the business community, Local Authorities and the Ministry of Trade and Industry's Department of Trade and Consumer Affairs and Department of Industrial Affairs, **as well as on the basis of a virtual validation workshop conducted for the same respondents**, the following were found to obtain:

- a) **Inconsistent Implementation of the Trade Act of 2019 and Trade Regulations of 2020**

- i) According to the business respondents, Gaborone City Council, Tlokweng Sub District Council in South East District Council, Kgatleng District Council (Mochudi), Kweneng District Council (Molepolole), Palapye Sub District Council in Central District Council, and Francistown City Council continue to compromise the intended statutory objective of ensuring that investors and business enterprises have easy, fast and inexpensive access to efficient issuance of business licenses and registration certificates.
- ii) Although the Department of Trade and Consumer Affairs maintains that it had briefed all Local Authorities on changes and resultant statutory requirements in the Trade Act of 2019 and the Regulations of 2020 prior to the commencement of implementation of the Act, the problem of inconsistent implementation of the Act was found to be present and it is probably caused by factors such as:
 - aa) inadequate transitional arrangement;
 - bb) unavailability of implementation guidelines;
 - aa) insufficient capacity in the form of manpower and equipment such as computers which Local Authorities face; and
 - bb) insufficient monitoring and support by the Ministry of Investment, Trade and Industry

b) Reception of the New Changes by the Implementing Structures

- i) The abolishment of the Licensing Committees has positively contributed to improved turnaround time in licensing and registering businesses. **Sixty five percent (65%)** of the business respondents confirmed that the turnaround time for issuing **business** licenses and registration certificates has improved. That is, when all documents which are required have been submitted, issuance of Trade Licence and Business Registration Certificates are done on the spot.
- ii) However, the business community expressed concern on the lax administrative process and the continuing poor attitude and services of some commercial officers who insist on requesting applicants to submit irrelevant documents such as work and residence permits, health and environmental reports for all applications, even when the applicants want to renew their business licenses or business registration certificates. Business respondents such as Pep Stores and Mascom, which have a countrywide presence/footprint in Botswana, stated that Tlokweng Sub District Council, Kgatleng District (Mochudi), Kweneng District Council (Molepolole), Palapye Sub District Council, and Francistown City Council require them to submit irrelevant documents, which are not stipulated in the Trade Act and Trade Regulations.
- iii) Most of the Local Authorities were found to be reluctant to implement the thirty days (30) grace period provided under section 13 of the Trade Act of 2019 to allow businesses to operate prior to issuance of trade licence or business registration certificate because of lack of guidance on the issue. For instance, Ghanzi District Council (Ghanzi), Chobe District Council (Kasane), Central District Council (Serowe), Francistown City Council, Kgatleng District Council (Mochudi), Jwaneng Town Council and Selebi-Phikwe Town Council argued that they did not find reason to give licence applicants a grace period of thirty (30) days when they were able to issue the trade licence or business certificate immediately upon presentation of requisite documents.

A contributing factor to the Local Authorities' reluctance could also be the unclear manner in which section 13 of the Trade Act of 2019 is crafted. Although it is intended to cover the 30 days grace period, it does not clearly do that and it appears to be at odds with section 5(2), which states that "No person shall carry on a trade or business, set out in the Regulations unless he or she is issued with a trading licence." Having this provision under the part of the Act that speaks to "Registration of Trade or Business" implies that the provision is only relevant to applicants seeking business registration certificate. This causes problems of interpretation.

- iv) Local Authorities also pointed out that the business people insisted on having a formal business licence or registration certificate prior to operation for other purposes such as participation in public tenders.
- v) However, an exception was found in Moshupa Sub District Council in the Southern District Council, which fully understood the concept of issuing permits post operation. Understandably, the Licensing Officer in Moshupa Sub District was seconded from the Ministry of Investment, Trade and Industry, hence his appreciation of the concept.
- vi) In Local Authorities specified at ii) above, renewal of all businesses licences issued under the Trade Act of 2008 are required to submit other documentation in addition to the that which is specified on Form 5 under the Trade Regulations of 2020, ostensibly as a transitional measure to refresh files and to channel clients to the right counter for business licence and/or business registration certificate under the new dispensation.

c) Coordination Amongst Local Authority Departments

The lack of coordination amongst departments within Local Authorities makes it onerous for the business license applicant to chase various Local Authority departments responsible for issuing reports on compliance with health, environmental, zoning, building occupation and fire requirements, and this has the potential to create fertile ground for bribery and corruption. Applicants pointed out that these departments were not aligned to the new dispensation to make business authorization seamless.

Some Commercial Officers in Local Authorities such as in Lobatse, Jwaneng, and Gaborone, were able to issue business licences and registration certificates over the counter, whilst others could not because the responsibility for signing business licences and registration certificates has been delegated to Senior Assistant Council Secretaries/Clerks and Assistant Council Secretaries/Clerks, ostensibly as a governance mechanism. At the Validation Workshop, it was pointed out that having only these senior local authority officers signing the business licences and registrations certificates delays issuance of licences and registration certificates over the counter within a day, which defeats the purpose and objectives of the Trade Act of 2019.

- e) **Supervision of Licensing Officers by the Ministry of Investment, Trade and Industry**
- i) Although sporadic inspections and visits to Local Authorities are conducted, **as well as day to day exchanges between officials**, both the Department of Trade and Consumer Affairs and Department of Industrial Affairs did not have planned or scheduled programmes for monitoring **and evaluating** the implementation of Trade Act of 2019 and the Industrial Development Act of 2019 by Local Authorities to whom the responsibility for issuing business licences and business registration certificates has been delegated.
 - ii) This has resulted in Gaborone City Council, Francistown City Council, Central District Council (Serowe), Chobe District Council (Kasane) and Kweneng District Council (Molepolole), “sneaking in” non-statutory requirements under the pretext that their own laws and/or bye-laws could not provide for every eventuality, yet such sneaked non-statutory requirements have been abolished under the current Trade Act and the Industrial Development Act. For example, the “Manager Designate Form” has been removed from the Trade Regulations, but most Local Authorities still have the requirement extant. Much as the requirement could be necessary and may have been an innocuous omission, in that the principal Act requires a business to employ a competent Manager, it is important that the requirement be properly provided for in the Regulations.

- iii) Nevertheless, different Local Authorities were found to be requesting for some information, most of which is not only proscribed under the current Act, but is also irrelevant, such as *Bank Statements, audited accounts, company resolution, identity of the owner of premises, proof of investment, covering letter explaining how business is to operate and list of products, occupation permit; copy of building drawings approved by Council, etc.*

f) Harmonization of Business Licensing Procedures Across Government Departments

There are some trades that are licensed by other Government Departments which have not changed their licensing processes. For example, the Department of Tourism, which issues tourism enterprise licenses in respect of hotels, camps, lodges, travel agents, etc currently has old processes and structures, including licensing committees. It is important for the business licensing policy to be consistent and in harmony across Government Departments and Ministries.

g) Non-Applicability of Licensing Policy to Other Activities

Regulations governing the cooking and vending of food in open spaces and on streets, which poses serious potential danger to both public health and safety, are either lax or not available. Some local authorities (e.g. Serowe) do have bye laws relating to catering and mobile kitchens while others do not have such. For example, the Gaborone City Council has no such bye-laws, but cooking and vending of food in open spaces is a big business activity in Gaborone City. Other Local Authorities (e.g. Ghanzi) do not completely allow cooking and vending of food in open spaces in their jurisdiction.

h) Education on and Awareness of the Introduced changes

The Ministry of Investment, Trade and Industry maintains that it carried out public education on introduced changes in radio stations, television, print media and social media. This notwithstanding, **40%** of the business people interviewed indicated that they were not aware at all about the introduced changes.

There is, however, validity in the argument by the Ministry that the information may not have reached important stakeholders because the “commencement of the Act came at a time when the COVID-19 pandemic and its adverse impact on businesses overwhelmed the attention and thoughts of most captains of businesses and industry. The lockdown and significantly reduced business activities, as well as the partial closure of the economy with a view to preventing the spread of COVID-19’s coronavirus may also have hindered the effectiveness of Ministry’s public education.

i) Implementation of an Integrated Digital System

- i) The new changes were premised on the introduction of an integrated digital system which would have, according to government and the business community, considerably improved the regulation of the business licensing process with a view to making it consistent, objective and predictable. The Ministry of Investment, Trade and Industry maintains that the advent of COVID -19 disrupted their plans to introduce an online business licence application system known as Ministry of Investment, Trade and Industry Management Information System (MITIMIS), which was envisaged to be fully implemented during the 2021/2022 financial year.
- ii) The Ministry has made assurances that the online business licensing system will be linked and accessible to all Local Authorities and other Government Ministries and public procurement entities. Furthermore, the Ministry stated that the intention was that the implementation of MITIMIS would include buying new equipment for all Local Authorities so as to enable them to improve their service delivery to applicants for business licences and business registration certificates. During the Validation Workshop held on 15th June 2021, the Ministry of Investment, Trade and Industry gave assurance that MITIMIS has been rolled out and eight (8) of the fifteen (15) Councils have been resourced with necessary equipment. This notwithstanding, a representative of the Central District Council spiritedly pleaded with the Ministry to ensure that MITIMIS should be modified to make it inclusively accessible by all Local Authorities instead of setting up to operate as exclusive silos for each Local Authority. The rationale for this noble plea was accessibility to standardized business licensing database and information, as well as easy exchange of notes and sharing of ideas by all Local Authorities.

iii) The Department of Information and Technology in the Ministry of Transport and Communication also gave assurance that its “SmartBots Strategy,” which came into effect in October 2020 is intended to transform the public sector and enable it to efficiently provide services to citizens and businesses through the following frameworks:

aa) *The Digital Economy Framework*, that aims to digitize industries, integrate ecosystem and industrialize digitalization.

bb) *Digital Governance Framework*, which intends to re-engineer government processes and procedures, re-architect the technical infrastructure and transform government service delivery system

cc) *Digital Readiness Framework* that looks into affordable access for all, digital literacy and participation by all.

j) **Capacitating and Empowering of Commercial Offices at Local Authorities**

The implementation of the new Act by local authorities has not only been made difficult by shortage of staff in some Local Authorities, but posts are graded differently and arbitrarily from region to region regardless of the work load involved. Notwithstanding the fact that the responsibility for staffing lies with the Ministry of Local Government and Rural Development, the Ministry of Investment, Trade and Industry, which is familiar with the processes of issuance of business licences and business registration certificates it delegated to Local Authorities should assist Local Authorities with **human resource needs** with a view to reducing the current disparities, inconsistencies and **heavy workloads**, which affect the morale of Commercial Officers and inevitably, service delivery, which some business community representatives have pointed out that it has not improved despite regulatory changes intended to expedite the issuance of business licences and business registration certificates.

3. CONCLUSION

3.1 On the basis of the foregoing findings, it is evident that:

- a) Implementation of Trade Act of 2019 and the Trade Regulations has largely resulted in improvement in the processing of compliant licence applications and issuance of business licences and business registration certificates on the spot over the counter.
- b) Local Authorities, mentioned at paragraph 2.1 b (ii) above, still require licence applicants to comply with non-statutory requirements such as submission of *bank statements, audited accounts, company resolution, identity of the owner of premises, proof of investment, covering letter explaining how business is to operate and list of products, occupation permit; copy of building drawings approved by the council*, a significant number of Local Authorities have not deviated much from the set requirements.
- c) Notwithstanding what is alluded to at subparagraphs a) and b) above, there is room for further improvement. In this regard, decisively prioritizing and accelerating digitization of licensing procedures and processes, as well as the provision of other investor and business facilitation services with a view to making such services accessible online is unavoidably indispensable as it will considerably benefit this country and its economy by:
 - i) eliminating circuitous service delivery procedures and processes, human subjectivity and creation of fertile ground for corruption and bribery;
 - iii) eliminating the onerous burden of accessing services that investors and businesses currently experience in Botswana;
 - iv) propelling Botswana's investor and business facilitation service to world class standard; and
 - v) significantly contributing to improvement of Botswana's doing business environment and attractiveness to both domestic and global investment flows.

4. RECOMMENDATIONS

- 4.1 The Trade Act of 2019 bestows the powers to issue trade licences to local businesses in Botswana on the Director of the Department of Trade and Consumer Affairs in the Ministry of Investment, Trade and Industry. In line with his or her powers as the sole Licensing Officer for the country through delegated responsibility to Local Authorities, it is recommended that the Director of Trade and Industry expeditiously restores consistency and uniformity in the issuance of trade licences by providing Local Authorities with clear guidelines, which restricts them **from** demanding licence application compliance beyond the statutory requirements specified in the Trade of Act of 2019 and Trade Regulations of 2020.
- 4.2 In order to improve reception of the new changes and consistency in the implementation of the Trade Act of 2019 together with the Trade Regulation of 2020, *it is recommended that the Ministry of Investment, Trade and Industry be engaged to:*
- a) **monitor implementation of the Trade Act and its regulations with a view to ensuring that all Local Authorities consistently implement the Trade Act and its Regulations in a uniform and standard manner;**
 - b) **educate the public, businesses and implementing officers on the new changes in the Trade Act of 2019 and its regulations, as well as on what is required to comply with statutory requirements for a trade licence application; and**
 - c) **avail remedial support and guidance, including holding biannual monitoring and evaluation retreats with Local Authorities, with a view to addressing challenges constraining Local Authorities from efficiently issuing business licences and business registration certificates in accordance with the Trade Act and Industrial Development Act.**
- 4.3 Bookings for business licence applicants to obtain inspection reports after inspections by Local Authorities on environmental, zoning, building occupation, etc requirements are not harmonized and standardized. Commercial officers in some of the Local Authorities do the bookings for and on behalf of the licence applicants whilst others leave it to the licence applicants to chase inspection reports in various Local Authority Departments.

It is recommended that the Ministry of Investment, Trade and Industry be engaged to work in collaborative partnership with Local Authorities on formulating and implementing a more business friendly system through which all inspection reports can be submitted to one Local Authority service point such as the counter at which business licences and business registration certificates are issued.

- 4.4 The impending introduction of the digital integrated system shall, as stated by both the business community and government, be able to improve coordination amongst Local Authorities' various Departments. ***It is, therefore, recommended that Government be engaged to prioritise and fast-track expeditious implementation of the digitalization of licensing processes and procedures with a view to making application for licences and issuance of business licences and business registration certificates accessible online.***
- 4.5 Local Authorities' Commercial Officers are not only responsible for issuing business licences and business registration certificates under the Trade Act. They are also, amongst other duties, responsible for: issuing industrial (manufacturing) licences and manufacturing registration certificates for non complex small and medium scale manufacturing operations under the Industrial Development Act and its regulations, liquor business licences under the Liquor Act and its regulations, registration certificates for businesses operating in cottages, as well as vendors and hawkers certificates. In addition to these responsibilities, they also serve as the Secretariat of Regional Appeals Boards. ***In view of their wide range of responsibilities, it is recommended that Government, through the Ministry of Investment, Trade and Industry, and the Ministry of Local Government and Rural Development, be requested to consider resourcing Local Authorities adequately with additional manpower and computer equipment with a view to enabling them to cope with the heavy workloads they shoulder, including record keeping, which became a topical issue during the Virtual Workshop on 15th June 2021.***
- 4.6 Applications for business licences and business registration certificates are submitted physically to the commercial offices of Local Authorities. This does not only result in long queues at Local Authority, but it is also a burden on licence applicants, particularly those that reside in vastly spread and outlying district councils.

It is, therefore, recommended that an online platform for processes of applying for business licences and business registration certificates be expeditiously developed and implemented so as to make it easier and quicker for applicants to access all the necessary information on business licences, business registration certificates and application forms online, countrywide, and apply for licences and registration certificates online.

- 4.7 The impending online platform will be, according to government, integrated with other existing government systems to remove the burden on applicants to submit to Local Authority commercial offices information required for licence application compliance that could be submitted online and processed by a computerized system. Systems to integrate with could include those dealing with registration of business names and companies online at Companies and Intellectual Property Authority (CIPA), payment of tax and tax clearance at Botswana Revenue Service (BURS) and the impending digitization of application for and issuance of work and residence permits. ***It is, therefore, recommended that Government be engaged to expedite digitization of application for and issuance of business licences and business registration certificates, as well as other investor and business facilitation related services as a strategy for enhancing service delivery by making such services accessible online and significantly contribute to improving Botswana's Doing Business environment.***
- 4.8 Some trade and industrial activities are allowed to operate from residential plots on the basis of guidelines issued by the Ministry of Investment, Trade and Industry. ***It is recommended that the Ministry of Investment, Trade and Industry be engaged to:***
- a) convert its guidelines into formal regulations and aligned to the new dispensation that seeks to make issuance of licences and/or registration certificates to such business activities seamless;***
 - b) review business licensing structures in other Government Departments with a view to harmonizing and aligning them with the new licensing dispensation obtaining in the Ministry of Investment, Trade and Industry; and***
 - c) persuade Local Authorities to standardize regulation of street vending, including preparation and sale of food in open public spaces.***

PART II

REPORT ON TRADE LICENSING REFORMS

1. INTRODUCTION

- 1.1 Business Botswana is concerned that instead of issuing trade licences to applicants in accordance with the statutory requirements under the Trade Act of 2019 and the Trade Regulations of 2020, Local Authorities (i.e. district and urban councils) require applicants to comply with non-statutory requirements and/or conditions not specified in the law. For example, some trade licence applicants reported informed their representative body, Business Botswana that they have been required to submit proof of payment of council rates, which is not a statutory requirement for a trade licence application.
- 1.2 The non-statutory requirements cause unnecessary '*red tape*', which results in debilitating, distracting draining scarce resources, which could be deployed more productively to enhance the operational efficiency and competitiveness of business enterprises. Most businesses, particularly, micro, small and medium enterprises, face daunting challenges like time, financial resources and the capacity to navigate Government's bureaucratic red tape and the consequential burdensome costs thereof. All businesses, irrespective of whether or not they are micro, small, medium and large scale categories, struggle to cope with such onerous impediments.
- 1.3 It is on the basis of the foregoing that Business Botswana engaged Sweet Springs to carry out a short-term consultancy and produce a Report on Trade Licensing Reforms that will convincingly justify the need for improving the doing business environment by:
 - a) streamlining and simplifying business licensing operational procedures and processes with a view to making compliance with the necessary administrative procedures and statutory requirements as painless as possible;
 - b) ensuring that enterprises have easy, fast and inexpensive access to efficient public services; and

- c) ensuring that Government and its relevant policy implementation agencies, including Local Authorities and Parastatal Organisations, fully commit themselves and demonstrate their administrative will to unavoidably remove the '*red tape*' and roll out the '*red carpet*' for businesses with a view to enabling them to take root, survive and thrive.

1.4 In developing the Report on Trade Licensing Reforms, the Consultants were guided by the Terms of Reference (TOR) Business Botswana provided and they are attached hereto as Annexure 1.

2. CONSULTANCY METHODOLOGY

2.1 The objective and expected outcome of the Consultancy was for the Consultant to recommend reforms of the Trade Licensing Procedures that will convince Government and its relevant policy implementing agencies to adopt the principle of '*putting business first*'.

2.2 Furthermore, recommendations of the reforms of the Trade Licensing Procedures were to be preceded by specific activities to be undertaken by the Consultant. These activities included:

- a) visiting Local Authorities to investigate and compile an inventory of non-statutory requirements and/or conditions found, which Local Authority are reportedly to said to be requiring trade licence applicants to comply with;
- b) assessing the impact non-statutory requirements and/or conditions have on the doing business environment and on the cost of doing business in Botswana; and
- c) conducting consultative and validation workshops in which businesses, Government and its relevant policy implementing agencies will have a buy-in opportunity by providing input, as appropriate.

3. IMPLEMENTATION APPROACH

3.1 The Consultant collated and analyzed information taking into account:

- a) the provisions of the Trade Act of 2019 and the Trade Regulations of 2020;

- b) existing Government policies on investor and business facilitation; and
- c) previous studies on the ease of doing business in the region and any other relevant documents and/or publications such as:
 - i) the State of the Nation Address (SONA) 2020 by His Excellency the President of the Republic of Botswana;
 - ii) 2021/22 Budget Speech by the Minister of Finance and Economic Development:
 - aa) the Minister of Investment, Trade and Industry's presentation of the Ministry's budget request for the financial year, 2021/22, to Parliament's Committee of Supply; and
 - bb) the Mid-Term Review (MTR) of National Development Plan 11 (NDP 11), and the Economic Recovery and Transformation Plan (ERTP).

3.2 In order to obtain a balanced picture, the Consultant interviewed both Local Authorities and trade licence applicants or their agents who submitted applications to Local Authorities for and on behalf of the clients (i.e. applicants). Business Botswana's representatives of businesses in all regions in Botswana were given a questionnaire to complete. In line, with Government's clarion call for the need to minimize movement of people with a view to preventing of the spread of the COVID-19 pandemic, which continues to engulf Botswana and all countries, worldwide, the Consultant physically covered Gaborone City Council, Lobatse Town Councils, Jwaneng Town Council and district Local Authorities in Kgatleng, Southern and Kweneng which surround these three urban Local Authorities. Other far-flung district and urban Local Authorities were contacted by phone or e-mail.

3.3 Structured questionnaires were distributed to the business community, Local Authorities, Department of Trade and Consumer Affairs, Department of Industrial Affairs and Department of Information and Technology. Annexure D shows a compilation of written responses to questions posed to the relevant stakeholders. Follow-up questions were made to both business people and Local Authorities as well as Department of Trade and Consumer Affairs with a view to determining:

- a) whether or not processes for renewal and obtaining a fresh trading permit were different; and
- b) the time taken to obtain trade licence or business certificate or to renew expired licence issued under the old Trade Act.

4. FINDINGS

4.1 Requirements and/or Conditions Under the Repealed Trade Act of 2008

- a) It was found that under the repealed Trade Act of 2008 that:
 - i) The repealed Trade Act had established Local Licensing Committees in Local Authorities (i.e. urban and district councils) which, in addition to specified statutory requirements, developed their own requirements and/or conditions they required business licence applicants to comply with. This resulted in different and multiple requirements that made starting a business in Botswana not only a laborious process but also expensive and costly.
 - ii) Local Licensing Committees were prone to making subjective commercial judgements on applications, which subjective judgements also exacerbated the unpredictability, inconsistency and uncertainty of the outcome of applications for business licences.
 - iii) Under the repealed Trade Act of 2008, trade licences were renewable every twelve (12) months and the renewal process was cumbersome requiring applicants to submit health reports and proof of payment for various non-statutory requirements such as payment for property rates.

4.2 Report on Doing Business

- a) Under the Report on Doing Business it was found that:
 - i) Botswana has been, over the years, scoring low points on the World Bank Report on “Doing Business”. *Starting up a new business* was one of the factors on which the country scored very low because of the cumbersome paperwork required for a business start-up.

- ii) In 2019, the Government of Botswana took a decision to upscale its score on the Doing Business by at least 10 to 20 points. As a result, and amongst other reforms, the Government made progressive and fundamental amendments to both the Industrial Development Act and the Trade Act. Regulations for implementing both the newly enacted Industrial Development Act and Trade Act were also introduced in 2020. Implementation commenced in June 2020.

4.3 Implementation of the Trade Act, 2019 and Trade Regulations, 2020

In June 2020, the Ministry of Investment, Trade and Industry commenced implementation of the Trade Act, 2019 and Trade Regulations, 2020 through Local Authorities (district and urban councils), to which the Government of Botswana delegated the responsibility of issuing all trade licenses and certain industrial (manufacturing) licenses. The stated objective of the Trade Act of 2019 is to **“simplify trade licensing procedures”**. The implementation of this Act and its subsidiary legislation (i.e. the Trade Regulations) ushered in the following progressive changes:

a) Abolishment of Licensing Committees

- i) Licensing Committees for both Industrial and Trade activities have been abolished except for liquor businesses.
- ii) Regional Appeals Boards have been, however, retained to attend to queries from either the licence/certificate issuing officers or the business licence applicants.

The Regional Appeals Boards are chaired and dominated by the private sector. The rationale for the retention of the Regional Appeals Boards is, ostensibly, to relief the Minister responsible for issuing business licenses from the mundane licensing issues to focus on development of policies and programmes.

- iii) The abolishment of Local Licensing Committees has resulted in Trade Licences/Certificates now being issued over the counter without reference to any Licensing Committee.

b) Licensing Only Applicable to Activities That Have Health and Safety Concerns

- i) The policy rationale for licensing under the new dispensation is to grant trade licences to businesses that may possibly pose health and safety risks such as restaurants and those dealing in chemicals or health issues. Ten (10) business activities have been identified as health and safety concerns and are thus, required to operate under a **'Trade licence'** and the applicant for a trade licence is required to submit satisfactory environmental health and zoning reports. Annexure B (i) shows the 10 trades that require a trade licence.
- ii) The other thirty five (35) listed trades under the Trade Regulations of 2020 that do not sell prepared food, or do not sell chemicals or provide health services, **are not** required to submit environmental health and zoning reports. These categories of trades or businesses are required to operate under a **"business registration certificate"**. Annexure B(ii) shows the 35 trades that are issued with business registration certificates.

c) Business Licences/Certificates Issued Post Operation

After duly notifying, and being recorded with the responsible Local Authority (i.e. Council), a business can commence activities prior to being issued with a business licence or business registration certificate. This means that all start-ups are given **30 days grace period** to have submitted documents for issuance of business licence or a business registration certificate **post operation**. This change has removed the need for provisional licences or Ministerial Exemption/Waiver.

d) Abolishment of Business Licence Renewal System

Business Licences or Business Registration Certificates are issued for an **indefinite period**. The annual licence renewal system has been abolished. Businesses are now only required to pay an annual business licence or business registration certificate fee and are not required to submit health reports or proof of payment of property rates, etc, which was previously the norm.

Business Licences and Registration Certificates are permanent and holders are only required to submit a seamless Form 5 and payment of the Annual fee for the Trade licence or business registration certificate.

e) List of Requirements in the Application Form

Under the new dispensation, the core legal requirements are listed and specified in the application forms for a business licence or business registration certificate to ensure consistency and uniformity across all Local Authorities. Annexures C(i) and C(ii) depict requirements as specified in the application for *Trade licence* and *business registration certificate*, respectively.

4.4 Implementation of the New Changes

Different structured questions were posed to the business community, Local Authorities and the Department of Trade and Consumer Affairs (DTCA) in the Ministry of Investment, Trade and Industry. On the basis of the review of responses received, **as well as on the basis of a virtual validation workshop conducted for the same respondents**, the following were found to obtain:

a) Inconsistent implementation of the Trade Act of 2019 and Trade Regulations of 2020

Questions were put forward to the business people and local authorities to determine additional documents required and whether or not old licences were renewed automatically as provided for under both the Trade Act of 2019 and the Trade Regulations of 2020. The responses showed that:

- i) According to the business respondents, Gaborone City Council, Tlokweng Sub District Council in South East District Council, Kgatleng District Council (Mochudi), Kweneng District Council (Molepolole), Palapye Sub District Council in Central District Council, and Francistown City Council continue to compromise the statutory objective intended to ensure that investors and businesses have easy, fast and inexpensive access to efficient issuance of business licenses and business registration certificates; and

- ii) Although Department of Trade and Consumer Affairs maintains that it had briefed all Local Authorities on changes and resultant statutory requirements in the Trade Act of 2019 and the Regulations of 2020 prior to the commencement of implementation of the Act, the problem of inconsistent implementation of the Act was found to be present and it is probably caused by factors such as:
 - aa) inadequate transitional arrangement;
 - bb) unavailability of implementation guidelines;
 - dd) insufficient capacity in the form of manpower and equipment such as computers which Local Authorities face; and
 - ee) insufficient monitoring and support by the Ministry of Investment, Trade and Industry

b) Reception of the New Changes by the Implementing Structures

- i) The abolishment of the Licensing Committees was found to have positively contributed to *improved turnaround time in issuance of business licences and business registration certificates*. That is, when all documents which are required have been submitted, issuance of Trade Licences and Business Registration Certificates are done on the spot. However, the business community expressed concern on the continuing poor attitude and services of the concerned officers who insist on requesting applicants to submit irrelevant documents such as work and residence permits, health and environmental reports for all applications, even when they want to pay the annual fee for their business licences. For example, business respondents such as Pep Stores and Mascom, which have a countrywide presence/footprint in Botswana, stated that Tlokweng Sub District Council, Kgatleng District (Mochudi), Kweneng District Council (Molepolole), Palapye Sub District Council, and Francistown City Council require them to submit irrelevant documents, which are not stipulated in the Trade Act and Trade Regulations.
- ii) When requested to rate services provided by Local Authorities, over 60% of the respondents rated service rendered by the Local Authorities as good while about 40% rated it average to poor.

Business respondents from the northern region of Botswana were satisfied with the services rendered by local authorities while the respondents in the South Central region were unhappy with the services of the local licensing officers.

- iii) Most of the Local Authorities were found to be reluctant to implement the thirty days (30) grace period provided under the Trade Act of 2019 to allow businesses to operate prior to issuance of trade licence or business registration certificate. For instance, Ghanzi District Council (Ghanzi), Chobe District Council (Kasane), Central District Council (Serowe), Gaborone City Council, Francistown City Council, Kgatleng District Council (Mochudi), Jwaneng Town Council and Selebi-Phikwe Town Council argued that they did not find reason to give licence applicants a grace period of thirty (30) days when they were able to issue the trade licence or business certificate immediately upon presentation of requisite documents. A contributing factor to the Local Authorities' reluctance could also be the unclear manner in which section 13 of the Trade Act of 2019 is crafted. Although it is intended to cover the 30 days grace period, it does not clearly do that and it appears to be at odds with section 5(2), which states that "No person shall carry on a trade or business, set out in the Regulations unless he or she is issued with a trading licence." Having this provision under the part of the Act that speaks to "Registration of Trade or Business" implies that the provision is only relevant to applicants seeking business registration certificate. It makes reference to non-applicability of Part V of the Act, which provides for procedures for business licensing and business registration certificates. This causes problems of interpretation.
- iv) The Local Authorities also pointed out that the business people insisted on having a formal business licence or registration certificate prior to operation for other purposes such as participation in public tenders.
- iii) However, an exception was found in Moshupa Sub District Council in the Southern District Council, which fully understood the concept of issuing permits post operation. Understandably, the Licensing Officer in Moshupa Sub District was seconded from the Ministry of Investment, Trade and Industry, hence his appreciation of the concept.

- iv) In Local Authorities specified at i) above, renewal of all businesses licences issued under the Trade Act of 2008 are required to submit other documentation in addition to the that which is specified on Form 5 under the Trade Regulations of 2020, ostensibly as a transitional measure to refresh files and to channel clients to the right counter for business licence and/or business registration certificate under the new dispensation

c) Coordination Amongst Local Authority Departments

Lack of coordination among Local Authorities' various departments makes it onerous for the business licence applicants as they have to go to from various departments responsible for issuing reports on compliance or otherwise with various requirements on health, environment, zoning, building occupation, fire, etc. This has the potential to create fertile ground for bribery and corruption.

Some Commercial Officers in Local Authorities, such as in Lobatse, Jwaneng, and Gaborone, were able to issue business licences and registration certificates over the counter, whilst others could not because the responsibility for signing business licences and registration certificates has been delegated to Council Secretaries/Clerks, Senior Assistant Council Secretaries/Clerk and Assistant Council Secretaries/Clerks, ostensibly as a governance mechanism. At the Validation Workshop, it was pointed out that having only these level of senior officers signing the business licences and registrations certificates delays the issuance of business licences and business registration certificates over the counter on the same day, thus having consequential effect of defeating the objectives the Trade Act of 2019 and Industrial Development Act of 2019, which are expeditiously and efficiently provide service delivery to investors and business licence and business registration applicants.

4.5 Supervision of Licensing Officers by the Ministry of Investment, Trade and Industry

- a) Although sporadic inspections and visits to Local Authorities are conducted, **as well as day to day exchanges and sharing of ideas between officials**, both the Department of Trade and Consumer Affairs and Department of Industrial Affairs did not have planned or scheduled programmes to carry out inspections on Local Authorities to which the responsibility to issue business licences and business registration certificates has been delegated.
- b) This has resulted in Gaborone City Council, Francistown City Council, Central District Council (Serowe), Chobe District Council (Kasane) and Kweneng District Council (Molepolole), “sneaking in” non-statutory requirements under the pretext that their own laws and/or bye-laws could not provide for every eventuality, yet such sneaked non-statutory requirements have been abolished under the current Trade Act and the Industrial Development Act. For example, the “Manager Designate Form” has been removed from the Trade Regulations, the cited Local Authorities still have the requirement extant. Much as the requirement could be necessary and may have been an innocuous omission, in that the principal Act requires a business to employ a competent Manager, it is important that the requirement be properly provided for in the Regulations.
- c) Different Local Authorities were found to be requesting for some information, most of which is not only proscribed by the Trade Act of 2019, but is also irrelevant, such as *Bank Statements, audited accounts, income statement, company resolution, Identity of the owner of premises, proof of investment, covering letter explaining how business is to operate and list of products to trade in respect of applicants for Agents business registration certificate*.
- d) The Ministry of Investment, Trade and Industry is not aware of these additional requirements by the Local Authorities. Regular reports from Local Authorities to the Ministry present clean and positive implementation of the changes.

4.6 Harmonization of Business Licensing Procedures With All Government Departments

There are some trades that are licensed by other Government Departments which have not changed their licensing processes. For example, the Department of Tourism, which issues tourism enterprise licenses in respect of hotels, camps, lodges, travel agents, etc currently has old processes and structures, including a Licensing Committees. It is important for the business licensing policy to be consistent and harmonious across all Government Departments and Ministries.

4.7 Non-Applicability of Licensing Policy to Other Activities

Regulations governing the cooking and vending of food in open spaces and on streets, which poses serious potential danger to both public health and safety, are either lax or not available. Some Local Authorities (e.g. Central District) do have bye laws relating to catering and mobile kitchens while others do not also have such bylaws. For example, the Gaborone City Council has no such bye laws, but cooking or vending food in open spaces is a big business activity in Gaborone City. Other Local Authorities (e.g. Ghanzi) do not completely allow cooking and vending of food in open spaces in their jurisdiction.

4.8 Education on and Awareness of the Introduced Changes

The Ministry of Investment, Trade and Industry maintains that it carried out public education on the introduced changes in the Trade Act of 2019 and its regulations, on radio stations, television, print media and social media. But some of the business people interviewed indicated that they were not very familiar with the introduced changes. There is, however, validity in the argument by the Ministry that the information may not have reached important stakeholders because the “commencement of the Act came at a time when COVID -19 dominated all the headlines and there was not much business activity at the time due to the closure of the economy to avert the impact of the COVID -19 pandemic.”

4.9 Implementation of An Integrated Digital System

- a) The amendment of the Trade Act was premised on the introduction of an integrated digital licensing system, which would be accessible online so as to: significantly improve:

- i) remove subjectivity in processing business licence applications and replace it with objectivity and predictability with a view to preventing the potential for creating fertile ground for corruption and bribery;
 - ii) eliminate or at least significantly minimize circuitous issuance of business licences and business registration certificates, and consequentially contribute to the overall improvement of the doing business environment in Botswana;
- b) The Ministry of Investment, Trade and Industry maintains that the advent of COVID - 19 pandemic upset their plans to computerize business licensing and have them accessible online under Ministry of Investment, Trade and Industry Management Information System (MITIMIS), which is now envisaged to be fully implemented during the 2021/2022 financial year.
- c) Assurances have been made that the online platform will link with all Local Authorities and Government Ministries, public procuring entities and that the intention was that when MITIMIS would be fully implemented, new computer equipment will be bought for all Local Authorities with a view to making the online platform easily accessible and efficient. **At the Validation Workshop held on 15th June 2021, the Ministry of Investment, Trade and Industry gave assurance that MITIMIS has been rolled out and eight (8) of the fifteen (15) Councils have been resourced with necessary equipment. This notwithstanding the Central District Council spiritedly pleaded with the Ministry to ensure that MITIMIS is accessible to all Local Authorities so that the licensing section does not function as exclusive silos in each Local Authority jurisdiction. The rationale for this noble plea was accessibility to a standardized MITIMIS database and information therein by all the 15 Local Authorities with a view to facilitating fast benchmarking and sharing of ideas and exchange of views on how overcome business licensing hiccups.**
- d) The Department of Information and Technology has also given assurance that its “SmartBots Strategy,” which came into effect in October 2020 intends to transform the public sector and enable it to efficiently provide services to citizens, investors and businesses through the following frameworks:

- i) *The Digital Economy Framework*, which is intended to digitize industries, integrate the business ecosystem and industrialise digitalization;
- ii) *Digital Governance Framework*, which is intended to re-engineer government processes, re-architect the technical infrastructure and transform government services; and
- iii) *Digital Readiness Framework*, which is intended to look into affordable access for all, with a view to facilitating digital literacy and participation by all.

4.10 Capacitating and Empowering Commercial Offices at Local Authorities

- a) The implementation of the Trade Act of 2020 by Local Authorities has not only been made difficult by shortage of staff in some Local Authorities, but by posts, which are graded differently regardless of the fact that the business licensing responsibility is the same in all Local Authorities.
- b) Notwithstanding the fact that the responsibility for grading posts in Local Authorities lies with the Ministry of Local Government and Rural Development, the Ministry of Investment, Trade and Industry, which is more familiar with the level of responsibilities in the posts for licensing functions it has delegated to Local Authorities, should, **where necessary, offer to assist the Ministry of Local Government and Rural Development to align the grading commercial officer cadre in Local Authorities with its own cadre of commercial officers' grades.** This would go a long way towards reducing the current disparities and inconsistencies, which affect the Local Authority Commercial Officers' morale and service delivery, which the members of the business community have pointed out that it has not improved, despite the regulatory changes in licensing processes.

5. CONCLUSION

5.1 On the basis of the foregoing findings, it is evident that:

- d) Implementation of Trade Act of 2019 and the Trade Regulations has largely resulted in improvement in the processing of compliant licence applications and issuance of business licences and business registration certificates on the spot over the counter.

- e) Although Local Authorities, mentioned at paragraph 4.4 b) (i) above, still require licence applicants to comply with non-statutory requirements such as submission of *bank statements, audited accounts, company resolution, identity of the owner of premises, proof of investment, covering letter explaining how business is to operate and list of products, occupation permit; copy of building drawings approved by the council*, a significant number of Local Authorities have not deviated much from the set requirements.
- f) Notwithstanding what is alluded to at subparagraphs a) and b) above, there is room for further improvement. In this regard, decisively prioritizing and accelerating digitization of licensing procedures and processes, as well as the provision of other investor and business facilitation services with a view to making such services accessible online is unavoidably indispensable as it will considerably benefit this country and its economy by:
 - i) eliminating circuitous service delivery procedures and processes, human subjectivity and creation of fertile ground for corruption and bribery;
 - vi) eliminating the onerous burden of accessing services that investors and businesses currently experience in Botswana;
 - vii) propelling Botswana's investor and business facilitation service to world class standard; and
 - viii) significantly contributing to improvement of Botswana's doing business environment and attractiveness to both domestic and global investment flows.

6. RECOMMENDATIONS

- 6.1 The Trade Act of 2019 bestows the powers to issue trade licences to local businesses in Botswana on the Director of the Department of Trade and Consumer Affairs in the Ministry of Investment, Trade and Industry. In line with his or her powers as the sole Licensing Officer for the country through delegated responsibility to Local Authorities, it is recommended that the Director of Trade and Industry expeditiously restores consistency and uniformity in the issuance of trade licences by providing Local Authorities with clear guidelines, which restricts them **from** demanding licence application compliance beyond the statutory requirements specified in the Trade of Act of 2019 and Trade Regulations of 2020.
- 6.2 In order to improve reception of the new changes and consistency in the implementation of the Trade Act of 2019 together with the Trade Regulations of 2020, *it is recommended that the Ministry of Investment, Trade and Industry be engaged to:*
- a) **monitor implementation of the Trade Act, 2019 and its Regulations with a view to ensuring that all Local Authorities consistently implement the Trade Act and its Regulations in a uniform and standard manner;**
 - b) **educate the public, businesses and implementing officers on the new changes in the Trade Act of 2019 and its Regulations, as well as on what is required to comply with statutory requirements for a trade licence or business registration certificate application; and**
 - c) **avail remedial support and guidance to Local Authorities, including holding planned biannual monitoring and evaluation meetings wherein constraints to expeditious and efficient issuance of business licences and business registration of certificates in accordance with the provisions of Trade Act,2019 and Industrial Development Act,2019 be urgently provided and acted on.**
- 6.3 Bookings for business licence applicants to obtain inspection reports after inspections by Local Authorities on environmental, zoning, building occupation, etc requirements are not harmonized and standardized. Commercial officers in some of the Local Authorities do the bookings for and on behalf of the trade licence applicants whilst others leave it to the licence applicants to chase inspection reports in various Local Authority Departments.

It is recommended that the Ministry of Investment, Trade and Industry be engaged to work in collaborative partnership with Local Authorities on formulating and implementing a more business friendly system through which all inspection reports can be submitted to one Local Authority service point such as the counter at which business licences and business registration certificates are issued.

- 6.4 The impending introduction of the digital integrated system shall, as stated by both the business community and government, be able to improve coordination amongst Local Authorities' various Departments. *It is, therefore, recommended that Government be engaged to prioritise and fast-track expeditious implementation of the digitalization of licensing processes and procedures with a view to making application for licences and issuance trade licences and business registration certificates accessible online.*
- 6.5 Local Authorities' Commercial Officers are not only responsible for issuing business licences and business registration certificates under the Trade Act. They are also, amongst other duties, responsible for: issuing industrial (manufacturing) licences and manufacturing registration certificates for non complex small and medium scale manufacturing operations under the Industrial Development Act and its Regulations; liquor business licences under the Liquor Act and its Regulations; registration certificates for businesses operating in cottages, as well as vendors and hawkers certificates. In addition to these responsibilities, they also serve as the Secretariat of Regional Appeals Boards. *In view of their wide range of responsibilities, it is recommended that Government, through the Ministry of Investment, Trade and Industry, and the Ministry of Local Government and Rural Development, be requested to consider resourcing Local Authorities adequately with additional manpower and computer equipment with a view to enabling them to cope with the workload they shoulder, including records keeping, which became a topical issue during the Virtual Workshop held on 15th June 2021.*
- 6.6 Applications for business licences and business registration certificates are submitted physically to the commercial offices of Local Authorities. This does not only result in long queues at Local Authority, but it is also a burden on licence applicants, particularly those that reside in vastly spread and outlying district councils. *It is, therefore, recommended that an online platform for processes of applying for business licences and business registration certificates be expeditiously developed and implemented so as to make it easier and quicker for applicants to access all the necessary information on business licences, business registration certificates and application forms online, countrywide, and apply for licences and registration certificates online.*

6.7 The impending online platform will be, according to government, integrated with other existing government systems to remove the burden on applicants to submit to Local Authority commercial offices information required for licence application compliance that could be submitted online and processed by a computerized system. Systems to integrate with could include those dealing with registration of business names and companies online at Companies and Intellectual Property Authority (CIPA), payment of tax and tax clearance at Botswana Revenue Service (BURS) and the impending digitization of application for and issuance of work and residence permits. *It is, therefore, recommended that Government be engaged to expedite digitization of application for and issuance of business licences and business registration certificates, as well as other investor and business facilitation related services as a strategy for enhancing service delivery by making such services accessible online and significantly contribute to improving Botswana's Doing Business environment.*

6.8 Some trade and industrial activities are allowed to operate from residential plots on the basis of guidelines issued by the Ministry of Investment, Trade and Industry. *It is recommended that the Ministry of Investment, Trade and Industry be engage to:*

- d) convert its guidelines into formal regulations and aligned to the new dispensation that seeks to make issuance of licences and/or registration certificates to such business activities seamless;*
- e) review business licensing structures in other Government Departments with a view to harmonizing and aligning them with the new licensing dispensation obtaining in the Ministry of Investment, Trade and Industry; and*
- f) persuade Local Authorities to standardize regulation of street vending, including preparation and sale of food in open public spaces.*

LIST OF ANNEXURES

ANNEXURE A

TERMS OF REFERENCE

1. Introduction

Botswana's licensing regime should be used to promote regulatory reforms to strengthen the ability of the private sector to create jobs, lift people out of poverty and create more opportunities for the economy to prosper

However Business Botswana is concerned about substantial inconsistencies in the implementation of the Trade Act by the different local authorities whereby instead of enforcing only requirements laid down in the law, local authorities introduce additional extra conditions for granting licenses.

The legal requirements are:

- i) Application Form*
- ii) Certificate of incorporation or registration and the latest Form of Annual Return*
- iii) Proof of availability of business premises*
- iv) Satisfactory zoning report*
- v) Satisfactory environmental Health report for the premises*
- vi) Certified copy of passport for non-citizens and identity card for citizens*

Some of the extra conditions include proof of payment of rates and appearing before the licensing committee. .

Business Botswana supports the removal of these administrative barriers to allow the licensing regime to catalyse private investment.

2. Investigation of extra requirements by local authorities

Business Botswana seeks financial support from the International Labour Office to engage a consultant to investigate the prevalence of extra requirements by local authorities.

The assessment would also recommend steps to remove subjectivity in the granting of licenses while ensuring predictability of rules for investors

3. Terms of Reference

Specifically, the consultant is expected to carry out the following:

- d) Visit local authorities and compile a list of extra conditions that each local authority has placed on applicants.
- e) Assess the impact these additional requirements have on the doing business environment and to the cost of doing business
- f) Conduct validation workshops with businesses with a view to receiving additional input from enterprises
- g) On the basis of the findings in a), recommend reforms of the trade licensing procedures to make it easy and predictable for investors,- public safety and health, notwithstanding.

ANNEXURE B(i)

LIST OF TRADES REQUIRING ZONING AND ENVIRONMENTAL REPORTS AND THEREFORE ISSUED WITH “TRADE LICENCE”

Trades or
businesses to
be licensed

26. The Director shall licence the following trades or businesses —

- (a) agricultural shop;
- (b) cosmetic shop;
- (c) fresh produce;
- (d) funeral parlour;
- (e) gymnasium;
- (f) hair and beauty parlour;
- (g) optician shop;
- (h) pharmacy or chemist;
- (i) restaurant; or
- (j) takeaway.

ANNEXURE B(ii)

LIST OF TRADES **NOT REQUIRED** TO SUBMIT ZONING AND ENVIRONMENTAL REPORT AND THUS ISSUED WITH “**BUSINESS REGISTRATION CERTIFICATE**”

Trades or
businesses to
be registered

3. The Director shall register the following trades or businesses —

- (a) agent;
- (b) amusement arcade;
- (c) auctioneer;
- (d) baby shop;
- (e) bookshop;
- (f) car wash;
- (g) cellphone shop;
- (h) cleaning services;
- (i) commercial hardware;
- (j) curio shop;
- (k) department store;
- (l) distributor;
- (m) driller;
- (n) dry-clean;
- (o) dry-clean depot;
- (p) electronics or electrical shop;
- (q) florist or plant nursery;
- (r) furniture shop;
- (s) general clothing;
- (t) general dealer;
- (u) general hire service;
- (v) haberdashery;
- (w) household shop;
- (x) imported pre-owned motor dealer;
- (y) industrial hardware;
- (z) internet café or copy shop;
- (aa) jewellery shop;
- (bb) laundromat;
- (cc) plant hire service;
- (dd) specialised motor dealer;
- (ee) sunglass shop;
- (ff) supermarket;
- (gg) toy shop;
- (hh) wholesale; and
- (ii) workshop.

ANNEXURE C (I)
LIST OF REQUIREMENTS FOR “TRADE LICENCE”

The applicant must submit the following with the application form for a trading licence –

1. Proof of company incorporation and the latest form of annual return (where applicable).
2. Proof of availability of premises (written undertaking lease in *lieu* of agreement or title deed).
3. Certified copy of passport for non-citizens and identity card for citizens.
4. Non-refundable licence application fee of P200.
5. Satisfactory Environmental health Inspection report for the premises.
6. Satisfactory Zoning Report.
7. Payment of appropriate licence fee upon approval.

ANNEXURE C (ii)

The applicant must submit the following with the application form for a registration certificate–

1. Proof of company incorporation and the latest form of annual return (where applicable).
2. Proof of availability of premises (written undertaking lease in *lieu* of agreement or title deed).
3. Certified copy of passport for non-citizens and identity card for citizens.
4. Non-refundable registration certificate application fee of P200.
5. Payment of appropriate business registration certificate fee upon approval.

ANNEXURE D(i)

DEPARTMENT OF TRADE AND CONSUMER AFFAIRS RESPONSE

1. The Application Forms for a Business Licence and Business Registration Certificate stipulate the documents to be attached to the application form. Are you aware of any of the offices in the local authorities that require additional requirements outside those stipulated in the application forms?
 - **Response: The Department is not aware of any additional requirements other than the one stipulated in the application forms.**
2. Do you have any planned or scheduled programme to carry out inspections on the offices in the local authorities to whom you have delegated authority to issue business licences and business registration certificates? And how often/frequent are/would be the inspections?
 - **Response: The Department periodically visits Local Authorities (LAs) to see the progress on the implementation of Trade Act, 2019 and appreciate the achievements and challenges met by the Councils during licensing or registration and other related functions.**
3. That business licences and business registration certificates are for an indefinite period, do you have systems to notify the traders about paying annual fees?
 - **Response: Currently we do not have Short Messaging System (SMS) notification reminding traders to pay annual licence fees and it can only be done after the implementation of online licensing. However, the Councils endorse in the licence or business registration certificate the due date of the next payment.**
4. Do you have plans to receive and process applications on-line?
 - **Response: The system is currently being rolled out to Councils and it is not yet live. The plan is ongoing to run the system live and align for online licensing.**
5. When do you think such plans would be implemented?
 - **Response: No time line as yet.**
6. If you intend to introduce an on-line platform, which Departments do you intend to interface or link with?
 - **Response: Companies and Intellectual Property Authority {CIPA}, Department of Civil & National Registration, Botswana Unified Revenue Services {BURS}, Public Procurement and Asset Disposal Board {PPADB} and other Government agencies.**
7. Do you have suggestions as to how the efficiency of government IT infrastructure could be made reliable?
 - **Response: Please liaise with Ministry of Transport and Communication {MTC}.**

8. Some Ministry Officials were seconded to various local authorities. How many local authorities were furnished with officers and what was the criteria for selecting the deserving Councils?
- **Response: In 2008 when the Ministry delegated the implementation of Trade Act, 2003 and the Liquor Act, 2003, the Ministry seconded 15 officers to the Local Authorities for smooth implementation of the Acts. The officers were allocated based on the anticipated workload at those various councils. It should be noted that other councils could not be given officers due to shortage of financial resources and were advised to recruit for themselves. The same officers together with the ones employed by the Councils are the ones currently involved in the implementation of the Trade Act, 2019.**
9. Some Commercial Officers at the local authorities book for necessary environment and zoning inspections on behalf of the applicants. Do you have plans to standardize this process across all local authorities?
- **Response: The legal procedure is for customers or clients to book inspections for themselves.**
10. There still exist negative perceptions about lack of uniformity across the licensing authorities in Botswana and the public, including some traders, are not aware of the changes you have introduced. Do have any educational program to publicize the changes introduced in June 2020?
- **Response: The information on the implementation of the new Act {Trade Act, 2019 & Trade Regulations 2020} is continuously disseminated to various stakeholders, business community, the implementers and the public at large through workshops, television, print media and electronic media {Facebook}. We have not received any complaints from the public about some Local Authorities requiring extraneous documents from them.**
11. We have, in confidence, shared our draft report with you. Kindly make comments or input on issues raised therein, especially regarding the holding of workshop to discuss the concerns on trade licensing discrepancies in local authorities.
- **Response: I propose to have a virtual meeting to discuss the whole report.**

ANNEXURE D(ii)

RESPONSE TO QUESTIONNAIRE

TRADE LICENSING REFORMS

DEPARTMENT OF INDUSTRIAL AFFAIRS

1. Yes, we have been made aware by applicants that some Local Authorities require additional requirements outside those stipulated. The common additional requirement is during the payment of annual fees where applicants are required to provide proof of payment of their rates before they can be assisted.
2. We do not have planned schedules/programmes to carry out inspections on the offices authority has been delegated to issue business licences and registration certificates. However, as a Department we have monitoring teams who visit manufacturing enterprises throughout the country over the year to learn more about them as well as monitor compliance. It is often during these monitoring exercises that we also visit and engage these offices to discuss their implementation challenges and address issues identified on the ground. This exercise takes place only once every quarter therefore due to width and breadth of the country, not all offices can be visited in a year but we try to alternate areas visited from year to year to cover the various offices. Furthermore, in instances where there is an opportunity to visit an area not covered by the monitoring team on other official engagements, these offices are also included in such visits.
3. At DIA, where we licence large enterprises (with annual turnover more than five million pula), we write reminder letters to enterprises a month prior to their payment due date as a way of reminding them. The letters are accompanied by application forms and indicate the requirements to be submitted along with the payment.
4. Plans to receive and process applications on-line are under way. An online system known as MITIMIS has been in place for some time but has not fully implemented due to various challenges. For instance, applicants were not able to apply from the comfort of their homes or offices mainly due to the challenges regarding online payment. Plans are on-going to figure out ways of addressing the identified challenges and have the applications fully online in the not so distant future especially because of the advent of covid-19.
5. It is envisaged that such plans would be implemented in the 21/22 financial year.
6. The on-line platform will link with all Local Authorities and Government Ministries/ Procuring Entities.

7. The efficiency of government IT infrastructure could be made reliable by procuring modern equipment because majority of the infrastructure currently in use is obsolete. The intention is that MITIMIS that will be implemented will buy new equipment for all the 31 local authorities to make the online platforms efficient. The problems are further exacerbated by the unexpected increase of traffic using this IT infrastructure in recent times.
8. Please refer to the response provided by DTCA.
9. Unfortunately this is beyond the Ministry `s control because the environmental and zoning issues are the mandate other Ministries and are regulated by different legislations. If indeed it proves that the process of booking for applicants is worthwhile and improves doing business, then we can only suggest that it be adopted but the final decision will still lie with the Local Authorities and relevant Ministries.
10. Various efforts have been implemented already since the commencement of the Act to educate the public about the changes introduced. There have been slots in radio stations, television, print media and social media dedicated to educating the public about the changes. However, it is appreciated that the information may not have reached all especially because the commencement of the Act came at a time when covid-19 dominated all the headlines and there was not much business happening at the time attributed to the closure of the economy to try avert the impact of covid-19. Additionally, the most common ways of educating the public particularly the business community have always been through hosting workshops. Unfortunately, the advent of covid-19 has stopped such activities and restricted movements therefore the public will have to adapt quickly to other forms of communication in order to acquire information. We, therefore, continue to use these new forms of communication to spread the message about the changes. I further think the different by laws that govern the different local authorities do have an impact on the implementation of the newly introduced Act

ANNEXURE D (iii)

RESPONSE TO QUESTIONNAIRE

DEPARTMENT OF INFORMATION AND TECHNOLOGY

Question on e-Government

When does Government intend to optimally utilize its e-Government Strategy that it developed during NDP 10 so that it can:

- i) efficiently provide service delivery to the public through the e-service model, especially to investors and business entities to prevent or at least minimize business closures and the consequential job losses that the debilitating COVID-19 pandemic can cause;**

The eGov strategy which was established in 2015 with a lifespan of 7 years until 2021, has been revamped through the SmartBots strategy which came into effect in October 2020 as approved by cabinet. The new strategy intends to adopt a whole of government approach to transform the public sector and enable it to efficiently provide services to citizens and businesses. The strategy also aims to engage the parastatals and the private sector in successfully implementing the SmartBots priorities and initiatives. It has three frameworks that address:

- iv) The Digital Economy Framework;** that aims to digitize industries, integrate ecosystem and industrialise digitalization.
- v) Digital Governance Framework;** intends to re-engineer government processes, re-architect the technical infrastructure and transform government services
- vi) Digital Readiness Framework;** that looks into affordable access for all, digital literacy and participation by all.

ii) Improve objectivity;

The Botswana government through the SmartBots strategy aims at connecting communities so that no one is left behind. A project to connect 200 villages during the 2021/2022 financial year with prescribed technological standards per each village and site, has just taken off where the primary criteria used was highest population.

The government strives to provide knowledge and tools to compete and build a knowledgeable and digitally compliant workforce. It also intends to build a citizen/customer experience that is integrated, seamless and trusted, leveraging on digitalization and technologies. Effort is being put into co-create data-driven products and services where the country will prioritise and invest in innovative ideas in order to compete in the global digital market. This is being achieved through:

- Establishment of the Botswana Digital Innovation Hub (BDIH) for public service transformation.

- Government is also piloting high impact public services to establish key pillars for transacting within and outside the public sector.
- Infrastructure completion thus Infrastructure4All
- Affordable access termed Access4All
- Commercialization and digitally drive the Lobu farm
- Management of the implementation of Public Sector Transformation
- Communications of the strategy

iii) Eliminate perceptions and/or suspicions of corruption in the way it provides services;

iv) Enhance public confidence and trust in its system.

Because the country intends for digitilisation to be the major contributor to the economy's GDP, government has started to:

- Ensure that the infrastructure is adequate to support 4IR;
- Build the programmes necessary to include population towards the 4IR – leave no one behind!
- Restructure the educational system and retool towards a knowledge-based workforce;
- Monitor the quality and capital costs for implementation;
- Enable an environment for building a knowledge-based economy through the private sector;
- Cost Savings that can circulate back to the economy for growth programmes.

ANNEXURE D (iv)
RESPONSES FROM BUSINESSES

1. Are you aware of changes that have been introduced by Government to simplify and make it easy to obtain a Trade License? Tick a), b) or c) below to show the extent to which you are aware of these changes:

a) very much aware **✓✓✓✓ 4**

b) slightly aware **✓✓✓ 3**

c) not aware at all **✓✓✓✓ 4**

2. The Application Forms for a Business License and Business Registration Certificate stipulate the documents to be attached to the application form. The legal requirements are:

vii) Application Form with an application fee of P200

viii) Certificate of incorporation or registration and the latest Form of Annual Return

ix) Proof of availability of business premises

x) Satisfactory zoning report

xi) Satisfactory environmental Health report for the premises

xii) Certified copy of passport for non-citizens and identity card for citizens

Licensing Officers make applicants to submit other documents in addition to those stipulated in the application form. Tick a), b) or c) below to show how often Licensing Officers require applicants to submit other documents not stipulated in the application form:

a) at all times **✓✓✓✓ 4**

b) sometimes **✓✓✓✓✓✓ 6**

c) never **✓ 1**

3. Are you able to list the **additional** documents or processes that are required on top of what is stipulated in the application form? If yes, list them below:

When refurbishing a shop, sometimes the authority will request that you furnish them with previous plans and proposed plan;
Zoning when a business is hosted within a mall that already has a Zoning report;
Valid/Proper Lease Agreement for fresh application and renewal;
Bank Statement;
Proof of Investment;

Income Statement;
Audited Accounts;
Omang for owner of Premises;
Occupation Permit;
Copy of Building Drawings approved by Council;
Letter stating line of Trade;
Company Resolution;
Truly Certified IDs for renewal

4. In your opinion, which requirements or processes do not add value and why do you think and believe they don't?
- **Certificate of incorporation or registration – CIPA already has that, its duplication of efforts and Authority can get information from relevant organization.**
 - **on renewal they could check the file for the details. Also CIPA is now online, they could confirm with on the website**
 - **Availability of business premises**
 - **Zoning and Health should be combined. Why should they do health when zoning is not okay.**
 - **Business Plan is to assess financial viability**
5. The Government's desire is to reduce the number of days it takes to start a business in Botswana. It is in line with this desire, that the time taken to obtain a trade license has been reduced. **Tick** a), b), c) or d) below to show whether or not you agree that the time taken to obtain a trade license has been reduced:
- a) Agree **✓✓✓✓✓✓✓** **7**
- b) Disagree **✓✓** **2**
- c) not aware that the time has been reduced. **✓✓** **2**
6. Licensing Officers at Local Authorities are said to have been orientated to facilitate investors and applicants for business licenses. Please, **tick** a), b), c) or d) **to rate** the services you obtain from the Licensing Authorities after their orientation on facilitating investors and applicants for business licenses in accordance with the new Trade Act and its Regulations:
- a) very good (excellent) **✓** **1**
- b) good **✓✓✓✓✓✓✓** **6**

c) average ✓✓ 2

d) poor (unchanged/usual) ✓✓ 2

7. Other Government Ministries, Departments and/or Parastatals play a role in the start-up of a business in Botswana. Tick a), b) or c) below to show whether or not, in your opinion, these entities are aligned and supportive of Government efforts to make business start-ups seamless and simple:

a) aligned and very supportive ✓ 1

b) aligned and generally supportive ✓✓✓✓ 4

c) not aligned and supportive ✓✓✓✓ 4

8. Please, list the entities, which according to your knowledge and experience are not aligned and supportive:

CIPA; BURS; Councils – Local Authorities; Department of Fire; Department of Tourism, Building Control Department; Planning Department; Council Fire Department, PPADP

9. Are you able to obtain business license applications forms online from the website of the Ministry of Investment, Trade and Industry (MITI)?

a) yes ✓✓✓✓ 3 b) sometimes ✓ 1 c) no ✓✓✓✓✓✓ 6

If your answer to 10 above is sometimes or no, give reasons for your answer:

Never Tried; System Down

10. Government and indeed the business community would like to have a regulatory/licensing regime that is consistent, objective and predictable. It is postulated that if trade licenses were to be applied for and submitted on-line, the objectivity and predictability of the licensing system would considerably improve. Tick a), b) or c) below to show your view:

a) Agree ✓✓✓✓✓✓✓✓✓ 9

b) disagree 0

c) there would be more delays due to system malfunction ✓✓ 2

11. Do you have any other suggestion for further deregulation and simplification of business license applications? If yes, list them below:
- a) **Reduce requirements for transfer/a company moving from one premises to another.**
 - b) **Major problems in Govt offices is the attitude of officers. Officers need to be properly oriented and strictly monitored. They frustrate us with their attitude and poor customer service**
 - c) **Managers should stop being in constant meetings and monitor their staff. They should do spot checks to ensure good customer service**
 - d) **Turn Around for approval should be set once all documents are submitted**
 - e) **Zoning should be liberal**
 - f) **Work and Residence Permits should not be required**
 - g) **Officers should be trained and monitored.**