

Business License Regulation

Date: 2004

General Provisions

This Regulation is governed by the Commercial Law of Afghanistan (1955) and will be further defined and broadened to incorporate and streamline all of the regulations of the Commercial Law, including but not limited to, import, export, and transit licensing.

Until the activities of the national norms and standards of Afghanistan are established, those sectors of business activities that require specific approvals from related agencies must be obtained.

Purpose

Article 1

This regulation replaces the procedural requirements of the previous Trade License Regulation. The purpose of this Regulation is to promote a free market environment for the promotion of trade and investment in Afghanistan. This Regulation conforms to the principles of transparency, equality, and accountability.

Definitions

Article 2

“Business” is any entity engaged in a lawful economic activity for the purpose of gain or profit, including but not limited to trade.

“Business Activity” is deemed to refer to actions carried out by a person involving any business for the purpose of generating economic profit (income) and/or achieving other measurable objectives. The type of business that falls under this Regulation includes, but is not limited to, trade.

“Business Enterprise” is any person that is engaged in the forms of business activity established by Article 3 hereof and registered as in accordance with the Law of Afghanistan.

“Business Licensing Department” is located at the Ministry of Commerce in Kabul, Afghanistan and authorizes approval and distribution of valid and current business licenses.

“Business Registration” is a reporting function requirement for all businesses prior to start-up for informational and legal reasons.

“Foreign Person” is a person organized under the laws of a country other than Afghanistan, possessing the nationality of a country other than Afghanistan and shall be treated according to the Constitution of Afghanistan. Any foreign person engaged in

business activities shall be classified as foreign for the purposes of determining the appropriate regulation regime.

“License” is an approval document required prior to engaging in the specified activity.

“Person” is a natural person or legal entity constituted or organized under applicable law, and includes a corporation, partnership, merchant, sole proprietorship, limited liability company, joint venture, association, joint stock company, trust or other entity in accordance with the laws of Afghanistan.

“Regulation” shall refer to this Business Licensing Regulation in Afghanistan and any rules or procedures duly promulgated pursuant to the Commercial Law of Afghanistan.

“State” refers to Afghanistan.

“Trade” is a for profit business established for the exchange of goods and/or services, including, but not limited to money for goods, goods for goods and services for goods or money.

Scope of Regulation

Article 3

Business licenses shall be issued in accordance with the scope of economic activities undertaken by a person. Business licenses may be categorized according to the type or types of activities undertaken.

Unlawful to Transact or Offer to Transact Business Unless Authorized

Article 4

It shall be unlawful for any person to transact or engage in business activities unless they are in possession of a current and valid business license. The penalty for operating a business without a current and valid license shall be the immediate revocation of the business license.

Licensing Authority

Article 5

The Ministry of Commerce and related branch offices shall have the authority to issue all business licenses after an applicant meets the filing requirements in accordance with this Regulation.

License Requirements

Article 6

In accordance with the Commercial Law of Afghanistan (1955), business license applicants must be at least 18 years of age.

Article 7

All business applicants must provide the following documentation to obtain a business license:

- a. Passport and/or national identity card;
- b. Certificate of Good Standing from the appropriate law enforcement authority;
- c. Completed application form (See Appendix 1); and
- d. Two photographs in the format as specified on the application form.

Article 8

All business applicants must complete the application form provided by the Ministry of Commerce's Department of Business License attached hereto.

Article 9

All business applicants must specify the place at which the business activity is to be carried out in the State.

Article 10

The Business Licensing Department of the Ministry of Commerce shall be notified of any changes to any information supplied in applying for or renewing a business license. Failure to comply with this provision may result in revocation of the business license.

Additional License Requirements for Foreigners

Article 11

All foreign business applicants must provide the following additional information:

- a. Passport and a valid business visa; and
- b. Notarized and/or certified financial statement by the business applicant's bank and/or accredited accountant.

Conflict of Interest

Article 12

All government employees shall disclose any conflict of interest to the Ministry of Commerce. If any conflict of interest is revealed, which has not been previously been disclosed, the business license shall be immediately revoked.

Article 13

It shall be unlawful to provide false or misleading information in the business license application. The penalty for providing false or misleading information shall be the immediate revocation of the business license.

Fees to be Paid

Article 14

A single annual fee shall be charged for issuing and renewing business licenses. No additional fees or charges shall be levied for the application, issue, or renewal of a business license.

Article 15

Any and all changes to the business license fee shall be set by the Minister of Commerce and shall be published in the Official Gazette at least 30 days prior to the application of the fee. The fee shall be prominently displayed in Dari, Pashto, and English languages at all locations where business licenses are applied for, issued, or renewed.

Effective Date**Article 16**

All business licenses are valid for one calendar year from the date of issue.

Revocation of Prior Regulations**Article 17**

Any trust deeds or money held by the Ministry of Commerce in exchange for the receipt of a trade license under the previous regulation must be returned to the trader after the enactment of this Law.

Article 18

Any and all changes to this Regulation shall be published in the Official Gazette at least 30 days prior to enactment. This Regulation shall be displayed in Dari, Pashto, and English languages at all locations where licenses are applied for, issued and renewed and made available to all interested parties free of charge.

Ratification**Article 19**

This regulation shall become ratified and effective upon the public announcement and signature of the Minister of Commerce on this first day of 1383.

H.E. Minister of Commerce