

RULES AND REGULATIONS FOR ESTABLISHMENT AND OPERATION OF INDUSTRIAL AND COMMERCIAL VENTURES IN BHUTAN, 1995

The rules and regulations for establishment and operation of industrial and commercial ventures are hereby revised in keeping with the policies and objectives of the Royal Government of Bhutan. These are applicable to all licenses in the three categories of trading, service industries and production and manufacturing industries within the Kingdom of Bhutan and are made effective from July 1, 1995.

All licenses issued by the Ministry of Trade and Industry (MTI) have been classified into the above three categories. License data and records will be maintained separately for each of these categories by the Ministry and the Regional Trade and Industry Offices. The Trade Division will deal with trading activities only, while the Industries Division will deal with the service, production and manufacturing sectors.

These Rules and Regulations should be considered together with the Companies Act, 1989 and other relevant rules and regulations that may be issued from time to time.

Rule 1. An individual or company/firm may engage in commercial or industrial activity only after obtaining a license for the purpose from the Ministry of Trade and Industry. Exceptions to this rule shall be made only in the case of small cottage industries established in rural areas with an investment of less than Nu. 100,000.00.

Violation of the rule shall result in payment of a fine of Nu. 2,000.00 and immediate closure of the activity.

Rule 2. The licensee shall engage only in the specified industry or products for which a license has been issued.

Violation of the rule shall result in payment of a fine of Nu. 2,000.00 and immediate closure of all other unauthorized businesses.

Rule 3. A licensee shall not engage in "fronting", in other words, leasing of the license to another party to run the business.

Violation of this rule shall result in cancellation of the license and immediate closure of the business.

Rule 4. A licensee shall keep the license safely at the registered office or business establishment at all times.

Violation of the rule shall result in payment of a fine of Nu. 100.00 and cancellation of the license if the rule is violated thrice.

Rule 5. The license shall be produced on demand by an authorized officer of the government.

Violation of the rule shall result in payment of a fine of Nu. 25.00 and cancellation of the license if the rule is violated thrice.

If a license is lost or damaged , the licensing authority shall be informed in writing within 30 days from the date of incident. A duplicate copy of the license can only be issued after due verification and on payment of a prescribed fee.

Rule 6. The licensee shall ensure that the license is renewed within the period fixed by the licensing authority after payment of prescribed fees and other charges.

Violation of the rule shall result in payment of a fine of Nu. 20.00 per day till the date the license is renewed. If the license is not renewed within six months from the last date of renewal, the license shall be cancelled automatically. The defaulter shall not be issued with a fresh license for the same activity unless all previous fines and government dues are fully paid and the MTI grants clearance.

Rule 7. For industries and major businesses where the license holder has a number of related activities for which services are required to be provided and where the licensee contracts out such services to a Bhutanese national, such a contractor must also possess a license.

Violation of this rule shall result in payment of a fine of Nu. 500.00 each to the licensee and the contractor and an immediate closure of the business.

Rule 8. The licensee shall employ only those non-nationals recommended by the Ministry of Trade and Industry and approved by the government as per its practice and procedure in this regard.

Violation of this rule shall result in cancellation of the license.

Rule 9. A licensee who employs non-nationals shall submit a concrete programme for recruitment and training of Bhutanese nationals for the industry or commercial establishment with a view to enhancing employment of nationals.

This programme shall be reviewed every year by the Ministry of Trade and Industry.

Rule 10. The licensee shall normally be required to establish the licensed business venture within twelve months.

Unless the Ministry of Trade and Industry is fully satisfied that the licensee is actively pursuing the proposed venture, the license may be cancelled or a penalty amounting to double the amount of the license fee shall be levied during the time of license renewal.

Rule 11. A licensee shall not deal in activities or commodities banned by the government.

Violation of the rule shall result in payment of a fine of Nu. 10,000.00 and immediate cancellation of the license. Thereafter, the MTI may initiate criminal proceedings against the defaulter.

Rule 12. The licensee shall not deal in adulterated, contaminated or "date-expired" products or medicines.

Violation of the rule shall result in payment of a fine of Nu. 10,000.00, seizure of the products and cancellation of the license. Thereafter, the MTI may initiate criminal proceedings against the defaulter.

Rule 13. The licensee shall ensure that the expected quality and standard of services are provided to clients and customers. In activities on which standards have been laid down in respect of health and hygiene as well as quality control by the concerned authorities of the government, these standards shall be followed scrupulously.

Violation of the rule shall result in payment of a fine of Nu. 1,000.00. If this rule is violated for three times, the license shall be cancelled and criminal proceedings may be initiated against the licensee.

Rule 14. A licensee shall not engage in any form of business malpractice including selling of fake products and manipulating standard weights and measures.

Violation of this rule shall result in payment of a fine of Nu. 2,000.00. If this rule is violated for three times, the license shall be cancelled and criminal proceedings may be initiated against the licensee.

Rule 15. The licensee shall ensure that government rules and regulations relating to environmental protection as well as health and safety measures are strictly adhered to in the operation and conduct of the industrial or commercial venture.

Violation of this rule shall result in a fine of Nu. 1,000.00 and cancellation of the license if the rule is violated thrice.

Rule 16. The licensee shall always keep the working premises and surroundings neat and clean in the interest of promoting a healthy and good business environment.

Violation of this rule shall result in a fine of Nu. 200.00. If this rule is violated for three times, the license may be cancelled.

Rule 17. A licensed wholesale or retail dealer in alcohol shall not sell or gift alcoholic beverages to a person below the age of 18 years.

Violation of this rule shall be dealt in accordance with notification No. KHA (12)-7/89/5070 dated April 26, 1993 issued by the Ministry of Home Affairs which is attached to these Rules and Regulations.

Rule 18. A license holder of a video library/cinema hall, bookshop/newspaper agent or any other business establishment shall not deal in pornographic movies, videocassettes and other materials. This includes a ban on import, sale, rental, screening, circulation and distribution of pornographic movies, videocassettes and other materials.

Violation of this rule shall result in payment of a fine of Nu. 10,000.00, confiscation of the banned goods and cancellation of the license.

Rule 19. A license holder of a video library shall not rent out to persons below the age of 18 years video cassettes that are considered unsuitable for children and that depict excessive and graphic violence. Similarly, cinema halls shall publicize clearly about the suitability of movies being screened for viewing by children.

Violation of this rule shall result in payment of a fine of Nu. 1,000.00 and cancellation of the license if the rule is violated thrice.

Rule 20. A licensed chemist, pharmacist or a shop dispensing medicines shall not sell any drugs requiring prescription of an authorized medical practitioner without a written prescription from such a person.

Violation of this rule shall result in a fine of Nu. 2,000.00 and cancellation of the license. Criminal proceedings against the license holder may be initiated by the government authority.

Rule 21. The transfer of ownership of license and the changes in location, activity, item, category and registered names may be effected only with the prior approval of the Ministry of Trade and Industry and on payment of prescribed fees.

Violation of the rule shall result in payment of a fine of Nu. 1,000.00 and immediate closure of the licensed venture.

Rule 22. A licensee holding trade license(s) for more than one category of items, whether issued in one or more license forms and presently operating only from one shop shall not be permitted to open separate shop(s). This rule applies only to the towns of Thimphu, Phuentsholing, Gelephu, Samdrup Jongkhar, Sarpang and Samtse.

Violation of this rule shall result in cancellation of the license(s).

Rule 23. The licensee shall maintain proper books of accounts as required by the Revenue and Customs Division and other governmental agencies which have given prior information to that effect and produce such books to an authorized officer of the government on demand.

Violation of the rule shall result in payment of a fine of Nu. 100.00. If the rule is violated thrice, the license shall be cancelled.

Rule 24. The licensee shall display the name of the commercial or industrial venture registered with the Ministry of Trade and Industry in Dzongkha. If any other official language is to be used, it should be written below the Dzongkha on the signboard. The script should be written in easily legible characters.

Violation of the rule shall result in payment of a fine of Nu. 100.00. If the rule is violated thrice, the license shall be cancelled.

Rule 25. The licensee shall display at all times and in a legible manner the prices of "essential commodities" fixed or recommended by the Ministry of Trade and Industry.

Violation of this rule shall result in payment of a fine of Nu. 2,000.00. If this rule is violated for three times, the license shall be cancelled.

Rule 26. A license holder for wholesale agency or dealership of the essential commodities identified by the Ministry of Trade and Industry shall :

- a) not hoard or re-export imported commodities meant for internal consumption;
- b) submit all relevant documents to the Ministry of Trade and Industry along with original invoices, change in the terms of dealership, if any, and obtain the necessary approval from the respective Regional Trade and Industries Officer prior to increasing the price whenever the price is increased by the principal companies concerned; and
- c) be responsible for ensuring adequate and consistent supplies of imported essential items identified by the Ministry of Trade and Industry.

Violation of the above rules shall result in cancellation of the license(s).

Rule 27. A license holder of a commission agency appointed by the government for selling quota items and other essential commodities directly to the consumers shall sell at the prices determined by the government, and shall not sell such commodities through other retailers.

Violation of this rule shall result in payment of a fine of Nu. 2,000.00 and cancellation of the license if the rule is violated thrice.

Rule 28. A license holder shall not take advantage of any situation which results in short supply of a product or products by increasing prices beyond the level which was approved or normally charged.

Violation of this rule shall result in payment of a fine of Nu. 2,000.00. If the rule is violated for three times, the license shall be cancelled.

Rule 29. Any foreign partnership or collaboration in industrial and commercial ventures in Bhutan shall require a prior written approval of the Minister for Trade and Industry.

Violation of this rule shall result in immediate closure of the industry/business and cancellation of the license.

Rule 30. The licensee shall furnish information about his/her industrial or commercial establishment as required by the Ministry of Trade and Industry from time to time.

Failure to furnish such information will be viewed seriously by the Ministry and necessary action as deemed appropriate may be taken against the licensee.

Rule 31. The licensee intending to close down the industrial or commercial establishment shall submit a proposal to the licensing authority in writing and surrender the license.

Violation of this rule may deny the licensee the privilege of obtaining any new licenses in the future.

Rule 32. A legal heir of the licensee shall not automatically be entitled to ownership of the license in the event of death of the licensee even though he/she shall be entitled to receive the properties of the deceased.

Rule 33. The licensee shall abide by the following rules and regulations and amendments thereto as issued from time to time :

- a) The Companies Act, 1989 and amendments thereto.
- b) Construction Development Board Rules and Regulations, 1992.
- c) Mining Rules and Regulations/Mining Act.
- d) Chathrim for Wage Rate, Recruitment Agencies and Workmen's Compensation, 1994.
- e) Temporary Contract License Rules and Regulations, 1994.
- f) Bhutan Tourism Rules and Schedule of Tariff for International Tourists, July 1995.
- g) All other rules and regulations governing trade, commerce and industries in Bhutan as issued by the government from time to time.

Rule 34. In case of any dispute in the interpretation of these Rules and Regulations, the decision of the Ministry of Trade and Industry shall be final and binding.

BHUTAN PACKAGE COMMODITIES RULES & REGULATIONS 1995 (Issued under Rule 33 (g) above)

These rules are made to regulate Sales, Storage & Distribution of Package Commodities in the Kingdom of Bhutan.

1. SHORT TITLE, EXTENT, APPLICATION & COMMENCEMENT

1.1 These rules shall be called Bhutan Package Commodities Rules and Regulation, 1995.

- 1.2 They shall extend to the whole of Bhutan and apply to goods produced in India, Bangladesh, Nepal and Bhutan.
- 1.3 They shall apply to Package Commodities which are intended or likely to be sold, distributed or delivered or offered or displayed for sale, whether wholesale or retail.
- 1.4 These rules shall come into force with effect from July 1, 1995.

2. DEFINITIONS

In these rules unless the context otherwise requires :

- (a) **Package Commodity** means a commodity which is packed in a container of whatever nature or wrapped with a printed label so that the product contained therein has a predetermined value or price and such value or price cannot be altered without tampering the package and expression package, wherever it occurs in these rules, shall be construed as a package containing a package commodity.
- (b) **Wholesale Dealer** means a dealer who does not directly sell any Package Commodity to any consumer but distributes or sells such Package Commodity only to retailers or to one or more intermediaries, and includes an importer and a manufacturer or packer of the goods.

EXPLANATION : Nothing herein contained shall be construed as preventing a Wholesale Dealer from functioning as Retail Dealer of any Package Commodity and in which event he shall comply with all the provisions of these rules which a Retail Dealer is required to comply by these rules.

- (c) **Retail Dealer** means a dealer who sells such Package Commodities directly to the consumer and includes a wholesale dealer who makes sale of such Packages directly to the consumer.
- (d) **Retail Sale** in relation to such Package Commodity means the sale or delivery of such commodity by the retail dealer, whether for cash or deferred payment for consumption by an individual or group of individuals or any other consumers.
- (e) **Retail Sale Price** means the maximum price at which the Package Commodity is to be sold to the consumer and means such price where it is mentioned on the Packages with the legend "Maximum Retail Price - inclusive of all Taxes".
- (f) **Director** means Director, Ministry of Trade and Industry, RGOB.

3. RULES AND REGULATIONS

- 3.1 Every package commodity shall bear thereon or on a label secured affixed thereto, the following declaration:
 - i. Name and address of the manufacturer, or, where the manufacturer is not the packer, that of the packer;
 - ii. Generic name of the product;

- iii. Net quantity contained in the package. This could be done either in terms of weight, measure or numbers; and
- iv. The maximum retail price.

In case of pre-packaged commodities imported into Bhutan from countries other than India, it would be adequate if the package contains the maximum retail price (MRP) as per the country of origin of the goods.

3.2 No wholesale Dealer shall:

- a. Sell, distribute, deliver, display or store for sale any package commodity unless the package complies with the provisions of these rules and more particularly the maximum price marking is indicated on the packages.
- b. Sell, distribute, deliver any package commodity at a price more than what is indicated by the manufacturer or supplier of such Packaged Commodity.

3.3. No Retail Dealer shall sell, deliver any package commodity for cash or deferred payment or other valuable consideration to any customer at a price exceeding the retail sale price. In case of goods imported from countries other than India, the wholesaler will work out the MRP for the sale in Bhutan by taking into account the net purchase price paid by the importers, customs duties and/or local taxes levied in the State and a mark up onwards the cost of sale and distribution and where the wholesale or the importer bears the cost of transportation, actual transport or freight charges, a profit margin indicated by the manufacturer or supplier. Where a manufacturer or supplier does not indicate the maximum mark-up to the importers, the Ministry will have the power and discretion to fix such maximum mark up in relation to the goods imported by the importers or wholesaler.

3.4 In the event of any increase or decrease in local taxes, no Wholesale Dealer or Retail Dealer shall sell or distribute any package commodity at any price exceeding the revised price.

Provided that the revised price shall not be higher than the extent of the increase in the local tax or in the case of imposition of fresh tax, higher than the fresh tax so imposed.

Provided further that where the revised prices are lower than the maximum price marked on the package, the Wholesale Dealer or Retail Dealer shall not charge any price in excess of the revised lower price.

3.5 No Wholesale or Retail Dealer shall obliterate, smudge or alter the maximum retail sale price indicated or printed on the package or on the label affixed thereto. Provided, however, that where the label contains the maximum retail price applicable in the country of origin in relation to the package goods imported from countries other than India, the importer shall be entitled to stick on the package the maximum retail sale price applicable for local sales within Bhutan. Such a sticker shall clearly identify the name or suitable identification mark of the importer.

4. PENALTIES

- 4.1 Contravention of any of these rules shall be punishable on offence being established with a fine of Nu. 2000.00 for the first offence, and for the second time with a fine of Nu. 5000.00 and subsequent violation shall be penalised with the cancellation of the trade licence.
- 4.2 No Court shall take cognizance of any offence punishable under these rules except upon a complaint in writing made by:
 - a. Director, or
 - b. any other officers specifically so authorised by the Director

5. POWER TO GRANT EXEMPTION

- 5.1 The Minister for Trade and Industry shall have the power to grant exemption from compliance with these rules subject to such condition as may be considered appropriate.
- 5.2 Without prejudice to the foregoing, the following categories of products shall be exempted from these rules;
 - i. Liquid milk, soft drinks, liquid beverages including fruit beverages in returnable bottle, any package containing bread and uncanned package of vegetable, fruit, ice cream, butter, cheese, fish, meat or any other like products;
 - ii. Gas cylinders;
 - iii. Packages containing less than 20 gms/20 ml weight/measures;

6. SUPERSESSION, REPEALS AND INTERPRETATION

- 6.1 These rules shall supersede all other orders, circular notification on pricing of commodities and products in force.
- 6.2 The Minister for Trade and Industry shall be the sole authority responsible for interpretation of these rules and his decision shall be final and binding.