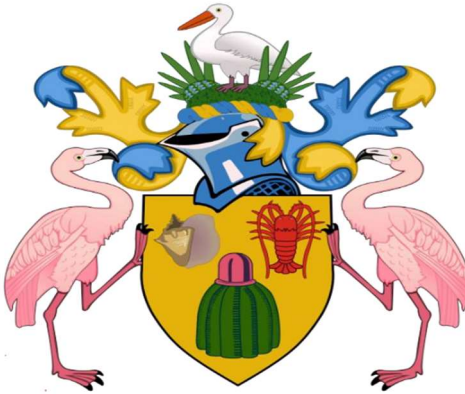


**THE MINISTRY OF FINANCE, INVESTMENT & TRADE**



**TURKS & CAICOS ISLANDS**

**CONSULTATION ON PROPOSED AMENDMENTS TO THE BUSINESS LICENSE  
ORDINANCE & REGULATIONS**

**RELEASE DATE: OCTOBER, 2023**

This consultation paper is being issued to seek feedback from businesses, stakeholders, consumers, industry associations, practitioners and any other interested parties (“Consultees”) in regard to the proposed amendments to the Business Licensing Ordinance & Regulations (the “Proposal”).

The Inland Revenue Department (“IRD”) is therefore, seeking feedback, comments and suggestions on the Proposal.

**Contact Details:**

The Inland Revenue Department  
Ministry of Finance, Investment & Trade  
Butterfield Square  
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Turks & Caicos Islands  
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# INTRODUCTION

The Business Licensing Ordinance (hereinafter “the Ordinance”) first came into effect on 1<sup>st</sup> January 1993 and there has been several subsequent amendments aimed at strengthening key components of its purpose which include the ease of doing business and the sustainability and/or protection of revenue.

The Government of the Turks & Caicos Islands (“TCIG”) remains instrumental in progressing the process of a comprehensive review of the Ordinance with a view to making the necessary amendments. As such, an in-depth in-house administrative review has been carried out culminating in the discovery of areas of the legislation which require revision.

In keeping with TCIG’s commitment and obligation in regard to transparency, the Ministry of Finance, Investment & Trade (“MOF”) led by the IRD is pleased to present this Proposal.

# PURPOSE OF THE CONSULTATION

TCIG is hereby seeking feedback, comments and suggestions on:

- The outlined Proposal contained within this consultation document; and
- How the actions within the outlined Proposal can be implemented.

This consultation is designed to gather feedback on the outlined proposals for changes to the legal framework which in turn will allow TCIG to facilitate a smooth transition for the business community.

In so doing, TCIG will focus on three (3) distinct stages, which will be explored in this Paper:

- ❖ Stage one: identify Businesses carrying on relevant activities;
- ❖ Stage two: garner feedback on how these changes will impact them; and
- ❖ Stage three: enforcement and effective administration of the requirements in the Ordinance.

Further details of each of these stages and associated questions in this Paper.

# DEVELOPMENT OF THE PROPOSAL

The IRD tabled the Ordinance for review with the MOF in March 2021. During the workshop justifications for amendments and insertions to the Ordinance which are the subject of the proposal were submitted to the Permanent Secretary of Finance, the Minister for Finance, and finally Cabinet for consideration.

Cabinet conditionally approved the final proposals and insertions made by MOF and in its instructions, directed that public consultations be held to crystallize national dialogue and feedback on the amendments before final consideration.

This Proposal was therefore developed in accordance with the mandate set out by Cabinet. This process provided avenues for expression as well as information dissemination that allows for smoother policy implementation.

## The Current Business Licence Administration

The Business Licensing Unit is currently a functional arm within the IRD under the MOF. Persons seeking licenses to operate a legitimate business will make an application in the prescribed form and are provided with a list of requirements based on several key factors that include:

- The Enterprise type: -
  - Sole Proprietor
    - Name Registration
  - Partnership
    - Name Registration
  - Corporation
    - Certificate of Incorporation with related registers
- The Business activity: -
  - Departmental Clearances, Licenses, Permits etc. are outline in the Business Licence Clearance Guide which can be viewed in its entirety on the Inland Revenue Department's website via: [www.gov.tc/revenue/publications](http://www.gov.tc/revenue/publications). Industry specific authorities give permission and relevant clearances and licenses that serve to ensure inter-departmental compliance and safeguarding the general public.
- Applicants Status: -
  - The Business Licensing Regulations (hereinafter the Regulations) makes restrictions based on the status of applicant reserving and restricting prescribed activities for Turks & Caicos Islanders in Schedules 3 and 4 of the Regulations.

The Business Licence fee structure consists of two hundred and fifty (250) categories prescribed in Schedule 2 of the Regulations with fees ranging from \$10 up to \$7,500.

## CONCLUSION

The amendments were comprehensively reviewed with the IRD's Administration, MOF, Cabinet and the business community of the Turks & Caicos Islands through this consultation period. The current view is that the proposed amendments are seen as an opportunity to address compliance limitations in the Business License Administration. It is envisioned that it will simplify and improve business license compliance efficiencies thereby encouraging voluntary compliance amongst licensees. We look forward to educating the general public and assisting the Business Community of the Turks & Caicos Islands.

# ANNEX 1

## PROPOSED AMENDMENTS

The proposed amendments to the Ordinance are as follows:

### **I. Re-establishment of the Business Licensing Board**

The Business Licence Board is proposed to comprise of the Director of Trade and Fair Competition, the head of the Inland Revenue Department and the legal advisor to the Ministry of Finance and an economist from the Strategic Policy and Planning Department (SPPD) who shall make recommendations to the Permanent Secretary, Finance on the issuance of a Business Licence.

The Board is also proposed to comprise of a Chairman and a Secretary, both of whom will be selected to serve from the Public Service. The Secretary's duties will include:

- i. Circulation of applications to the Board Members ahead of the Meeting;
- i. Prepare the minutes of all meetings of the Board;
- ii. Maintain the Board's records; and
- iii. Such other duties as may be required by the Permanent Secretary of Finance to be performed.

Meetings shall be convened on the first week of every month and shall take place at any place within the Islands.

The function of the Board shall be to consider and decide upon applications for licenses under the Ordinance and such other functions as may be conferred upon the Board by the Business Licensing Ordinance or any other Ordinance or Regulations made thereunder. As such, it will be lawful for the Board to seek and obtain the advice of any person to assist it with the discharge of its functions under the Ordinance.

### **II. Appeals**

An applicant aggrieved by a decision of the Board may appeal to the Minister of Finance within a period of thirty (30) days following notification of the decision appealed against. The instance in which an appeal can be made is as follows:

- a) Refusing to grant a license;
- b) Imposing any special conditions on a license;
- c) Refusing to renew a license;
- d) Suspending a license;
- e) Delaying the issuance of a license; or
- f) Revoking a license

The appeal will have effect of suspending the execution of the decision of the Board until the Minister gives his decision on appeal. In considering the appeal, the Minister may request further information as he may deem fit and may choose to summarily dismiss the appeal if the appellant fails to comply with the request.

The Minister on appeal may direct the Board to grant a license on such terms and conditions as he may determine, direct the Board to cancel a condition it has imposed and substitute with another condition, or restore a license that has been suspended or revoked on such conditions as he may determine.

Appeals shall be made to the Minister whose decision is final.

### III. Disclosure

A licensed business must disclose to the Authorities its intention to establish branches and shall apply to the Business Licence Board for permission and shall pay any and all fees related to that permit if granted.

### IV. Work Permits

Holders of work permits wishing to establish a business that will require the hiring of others on work permits must make a disclosure of such a need in their business licence applications.

#### Proposed Amendments to Existing Provisions

Headings of the Ordinance	Provisions (section/regulation/schedule)	Comment	Proposed Amendment
<ul style="list-style-type: none"><li>- Interpretation/</li><li>- Power to make Regulations/</li><li>- Reserved Business Activity</li></ul>	Section 2(3) with impact on section 24(b); regulations 5(1)	<p>The current definition of a “Turks and Caicos Islands Business in the Ordinance can be revisited to strengthen positive discrimination for Turks and Caicos Islanders.</p> <p>A revision of this definition is therefore expected to impacted all mention of “Turks and Caicos Islands Business” throughout the Ordinance and will bring greater efficacy to for example section 24(b) of the Ordinance and regulation 5(1)</p> <p>Which for ease of reference, section 24(b) states:</p> <p>“The Governor may make regulations for carrying out and giving effect to this Ordinance, and in particular, may make regulations –</p>	<ol style="list-style-type: none"><li>1. Create a new category that is a “100% Turks and Caicos Islander business” which benefits that are over and beyond what is currently being received by a “Turks and Caicos Islander business” can be assigned to, or</li><li>2. For b and c above, increase the requirement for the Turks and Caicos Islander ownership (or entitlement) in a business/partnership from a simple majority to a minimum of a two-thirds majority (i.e. supermajority).</li></ol>

		... (b) protecting businesses owned by Turks and Caicos Islanders from competition by businesses owned by non-Turks and Caicos Islanders”	
Business Licence & Grant of Licence	Sections 3 & 6	The Ordinance currently provides that it is illegal to operate a business without a license. There are offences listed for contravention of these provisions, however, it is imposed on conviction from the court. In order to be effective it is believed that the Department must have the authority to impose significant fines which does not require court action once it can be proven that an individual or entity is operating a business without a licence.	Insert: • Four-tiered process:  1) permit Department to impose fines up to \$5,000, such fines should be imposed for a 24 to 48 hours’ turnaround payment period; 2) failure to comply then PS impose fines up to \$20,000 and 3) failure to comply results in court action with a fine of up to \$50,000. 4) Processing of Licenses due to failure to comply will be fined up to \$1000 for expedited processing.
Grant of licence	Section 6(3) &6(4)	This currently allows the Permanent Secretary 1. the sole power to make special conditions under which a licence may be granted and 2. the sole power to vary special conditions to which a licence is subject.  A decision to both grant and vary special circumstances of a licence should be reserved for the	Replace section 6(4) with the following suggested rewording:  “Special conditions to which a licence is subject may be varied at any time, upon an application by the Licensee to the Minister of Finance who in consultation with the Cabinet shall make a decision on the application.”



		Minister of Finance in Cabinet.	
Licence not transferable	Section 7	<p>This section prohibits the transfer of licenses, however the Attorney General's Chambers advised that a company may sell the shares in its Company and still retain the business license all that is required is that notice be sent. This provision as worded seemingly only applies to sole traders. This has also allowed for the evasion of the reserved only restrictions as it has been discovered that many licenses have been granted to companies in the reserved category and that it has been transferred to non-Turks and Caicos Islanders with no notification being given to the business licensing unit.</p>	<p>Insert provisions to state that this restriction applies to sole traders, partnerships and companies.</p>
Permanent Secretary, Finance may suspend a business licence	Section 10	<p>Current structure is not effective. There is currently a three-step procedure which creates a long delay in effectuating a suspension.</p>	<ul style="list-style-type: none"> <li>• The Department may suspend the licenses of a licenses on the following grounds:</li> <li>• (a) the licensee has failed to comply with a condition of his licence;</li> <li>• (b) the licensee has failed to pay any fee payable in respect of his licence;</li> <li>• (c) the licensee has failed to pay a tax debt;</li> <li>• (d) a request made by the AG's Chambers to place a hold on license pending</li> </ul>

			<p>legal proceedings;</p> <ul style="list-style-type: none"> <li>• (e) non-compliance with other Government Departments.</li> <li>• Before suspending a licence under this section the Department shall serve a notice in writing on the licensee setting out its intention to suspend his licence and giving him <b>seven working days</b> to either comply with the conditions of his licence or to pay any fee payable in respect thereof, as the case may be.</li> <li>• Subject to section 11, a licensee whose license is suspended by the Department under subsection (1) shall be suspended up to <b>fourteen days</b> and the licensee must comply with the conditions of his suspension or pays the fees payable in respect thereof, as the case may be, for it to be restored.</li> <li>• Where a licensee continues to carry on business while suspended the Department can impose a fine of \$10,000, continued non-compliance PS of \$20,000 Court a fine of \$50,000</li> </ul>
Permanent Secretary, Finance may revoke a licence	Section 11	<p>Sets out the procedure for a revocation by the Permanent Secretary.</p> <p>The amendment seeks to change this as follows&gt;&gt;&gt;&gt;&gt;</p>	<ul style="list-style-type: none"> <li>• Has had his license suspended under section 10 for more than <b>fourteen days</b>; or</li> <li>• Where there have been changes made to the ownership of the Company which results in the following;</li> <li>• Changes that have been</li> </ul>

			<p>made to the ownership of the Company which results in a transfer of the license under section 7;</p> <ul style="list-style-type: none"> <li>• It no longer meets the requirements for the category under which the license has been issued;</li> <li>• Or where the licensee fails to notify the Department that there has been a change.</li> <li>• Being the sole holder of the licence or otherwise has been, under the Immigration Ordinance, recommended for deportation, or declared a prohibited immigrant, or placed on the Stop List.</li> <li>• Remove intention letter</li> <li>• Where a licensee continues to carry on business where the license has been revoked the Department can impose a fine of \$10,000, continued non-compliance PS of \$20,000 Court a fine of \$50,000</li> <li>• A licensee who owes a debt to the Government and has had their license revoked may not be issued a new license as a sole trader or otherwise until there has been payment of the debt.</li> </ul>
Appeal against decision of Permanent Secretary	Section 13	This section provides the grounds on which aggrieved persons can appeal decisions of the Permanent Secretary, Finance under the Ordinance. In order to ensure effective and efficient operations of the business licensing section, it is proposed	In the event that the board is not established, any person who is aggrieved by any decision made by the Permanent Secretary, Finance under the Ordinance may, within a period of one month from the date on which that decision was made <b>and on payment of any fees raised or due in conformity therewith,</b>

		to be included that person must pay any requisite licensing fees before they appeal any decisions.	appeal against the decision to the Magistrates Court.
Application for renewal of licence	Reg. 4	Renewal to be re-termed as re-application.	Insert as follows: All licenses which are not renewed on or before the 30 <sup>th</sup> April will be automatically cancelled on 1st May and subject to reapplication.
Applications for Licences in reserved business activities	Reg. 6	The power to grant licences in businesses listed in Schedule 3, the “Reserved Category” currently lies solely with the Permanent Secretary.	In the event that the board is not established, amend regulation to vest sole power to grant licences for business activities listed in Schedule 3 - “Reserved Category” to the Minister of Finance.
Licence fees and annual renewal fees	Schedule 2 reg. 2(3)	The provision under this section will no longer be applicable based on the amendment to regulation 4	This provision will be removed/deleted.
Service of notices		There is currently no provision to deal with the method of service. It is proposed to insert the foregoing	Amended to include delivery via email.

#### **V. Proposed Business Licensing Regulations- Section 24**

- License can be refused if the applicant has outstanding arrears with any Government Department;
- Repeal regulation 3(2)(d)(iii)- investor declaration require investor/owner work permit;
- Regulation 3(2)(d)(i) replace as follows-
  - Insert Self-Employed Work Permit, Permanent Residence Certificate-gainful occupation and/or Certificate of Naturalization.
- Fees
  - Administrative fee for reprint \$50;
  - Photocopies for a fee of \$5 per copy. This will detour applicants from submitting application through the manual process and to use the online portal;
  - Application fee is a non-refundable 10% of business licensing fee.
- Those who continue to operate without a renewed business license at the end of the licensing period will commit an offence under section 3 and be subject to fine.

#### **VI. Reserved/ Restricted Category**

Regulation 7 under the Business Licensing Regulations has been amended by Legal Notice 8 of 23 which came into operation on 13<sup>th</sup> February 2023. The provision now provides an exhaustive list of requirements to satisfy in order to obtain a business licence in the “Restrict Business Activities” section of the Regulations.

## VII. Fee Schedule

In addition to a review of the reserved category, a review of the fee schedule was undertaken. These included a creation of specific categories for those that were placed under the miscellaneous categories:

<ul style="list-style-type: none"> <li>• Taxi Dispatch Services- \$340</li> <li>• Aviation Quality Services- \$2000</li> <li>• Fuel distribution, brokerage &amp; sales- \$500</li> <li>• Elevator Installation &amp; Maintenance- \$2000</li> <li>• Concrete Testing Services- \$1000</li> <li>• Diving/ Swimming instructor- \$150</li> <li>• Tennis instructor- \$150</li> <li>• Driving instructor- \$150</li> <li>• Medical Spa-\$1000</li> <li>• Retail and Wholesale Sales-over 15,000sq.ft.- \$3500</li> <li>• VIP Transport (per vehicle)- \$250</li> <li>• Commercial Space Rental (per Sq.ft.)- \$0.20 (maximum \$3,500)</li> </ul>	<ul style="list-style-type: none"> <li>• Martial arts instructor- \$150</li> <li>• Business Training &amp; Coaching-\$150</li> <li>• Performing Arts Institute- \$150</li> <li>• Intellectual Property Rights Services- \$750</li> <li>• Insurance Adjustment Services- \$750</li> <li>• TV Network-\$500</li> <li>• Credit card reading services-\$500</li> <li>• Procurement/ Import Services- \$500</li> <li>• Micro Lending Services-\$500</li> <li>• Luggage Carts-\$500</li> <li>• Transit Luxury Vessel Cruises- \$1500 (per vessel)</li> </ul>
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Further proposed amendments to the Fee Schedule include:

#	Fee Schedule Amendment	Reserved Activity Amendments	Restricted Activity Amendments
1	Add “Sole Practitioner/Professional - Accountant” to Professional, Legal and Business Services at \$1,350.	Add “Sole Practitioner/Professional (Accountant, Lawyer/Legal Executive, Architect, Surveying Professional, Professional Engineering Services and Professional Engineering Consultant) to RESERVED BUSINESS ACTIVITIES.	
2	Add “Sole Practitioner/Professional - Lawyer/Legal Executive” to Professional, Legal and Business Services at \$1,350.	Add “Water and Beverage Processing” to RESERVED BUSINESS ACTIVITIES.	Add “Animal Husbandry” to RESTRICTED BUSINESS ACTIVITIES.
3	Add “Sole Practitioner/Professional - Architect” to Professional, Legal and Business Services at \$1,350.	Add “Woodwork, Art and Craft for Wholesale” to RESERVED BUSINESS ACTIVITIES.	Remove “Bottling and Canning Operation” from RESTRICTED BUSINESS ACTIVITIES.
4	Add “Sole Practitioner/Professional - Surveying Professional” to Professional, Legal and Business Services at \$1,350.	Add “Nurseries/Day Care/Child Care Services” to RESERVED BUSINESS ACTIVITIES.	Add “Commercial Chemical and Pharmaceutical Processing” to RESTRICTED BUSINESS ACTIVITIES.
5	Add “Sole Practitioner/Professional - Professional Engineering Services” to Professional, Legal and Business Services at \$1,350.	Add “Bowling Alley” to RESERVED BUSINESS ACTIVITIES.	Remove “Commercial Marine Produce (seafood) Processing Plants” from RESTRICTED BUSINESS ACTIVITIES.
6	Add “Sole Practitioner/Professional - Professional Engineering Consultant” to Professional, Legal and Business Services at \$1,350.	Add “Cinema” to RESERVED BUSINESS ACTIVITIES.	Add “Hydroponic Farming” to RESTRICTED BUSINESS ACTIVITIES.
7	Add “Apartment Rentals - Short Term < 3 months” to Tourism, Real Estate and Hospitality Services at fee to be determined.	Add “Event Planning and Coordination” to RESERVED BUSINESS ACTIVITIES.	Remove “Water and Beverage Processing” from RESTRICTED BUSINESS ACTIVITIES.
8	Remove “Internet Service Provider”, as it is a SPECIAL LICENSE that should be issued by the Telecommunications Commission.	Add “Movie, Video/Game Store/ Rental” to RESERVED BUSINESS ACTIVITIES.	Remove “Woodwork, Art and Craft for Wholesale” from RESTRICTED BUSINESS ACTIVITIES.
9	Remove “Satellite and Global Positioning Services”, as it is a SPECIAL LICENSE that should be issued by the Telecommunications Commission.	Add “Photography” to RESERVED BUSINESS ACTIVITIES.	Add “Primary and Secondary Educational Institutions/Education & Training Services & Centres” to RESTRICTED BUSINESS ACTIVITIES.
10	Remove “Telecommunication Service”, as it is a SPECIAL LICENSE that should be issued by the Telecommunications Commission.	Add “Marine Mooring Services” to RESERVED BUSINESS ACTIVITIES.	Add “Technical Vocational Institutions” to RESTRICTED BUSINESS ACTIVITIES.

11	Remove “Television Broadcasting”, as it is a SPECIAL LICENSE that should be issued by the Telecommunications Commission.	Add “Marine Transport – Local Cargo (per vessel)” to RESERVED BUSINESS ACTIVITIES.	Add “Dredging and Mining (including sand, oil and other minerals)” to RESTRICTED BUSINESS ACTIVITIES.
12	Remove “Casino and Gaming”, as it is a SPECIAL LICENSE that should be issued by The Gaming Commission.	Add “Marine Transport – Passenger Ferry (per vessel)” to RESERVED BUSINESS ACTIVITIES.	Remove “Marine Transport – Passenger Ferry (per vessel)” from RESTRICTED BUSINESS ACTIVITIES.
13	Remove “Slot Parlors”, as it is a SPECIAL LICENSE that should be issued by The Gaming Commission.	Add “Air Conditioning, Refrigeration and Cooling Services” to RESERVED BUSINESS ACTIVITIES.	Remove “Interior Decorating and Designing” from RESTRICTED BUSINESS ACTIVITIES.
14	Remove “Electricity Service Provider”, as it is a SPECIAL LICENSE that should be issued by The Electricity Commission.	Add “Contractor: Electrician” to RESERVED BUSINESS ACTIVITIES.	Remove “Law Practice (4 to 6 Lawyers/Legal Executives)” from RESTRICTED BUSINESS ACTIVITIES.
15	Remove “Sole Practitioner/Professional (Medical Practice, Dental/Orthodontic Practice, Chiropractic, Physiotherapy, Veterinary and Optometry) (Turks and Caicos Islander)”, as the individually licenses should be issued by The Health Regulatory Authority.	Add “Contractor: Large” to RESERVED BUSINESS ACTIVITIES.	
16	Remove “Cruise Port Facility”, as it is a SPECIAL LICENSE that should be issued by a government department/government Agency to be determined by Cabinet.	Add “Interior Decorating and Designing” to RESERVED BUSINESS ACTIVITIES.	
17	Remove “Marina”, as it is a SPECIAL LICENSE that should be issued by a government department/ government agency to be determined by Cabinet	Add “Landscaping/Nursery” to RESERVED BUSINESS ACTIVITIES.	
18	Remove “Shipyard”, as it is a SPECIAL LICENSE that should be issued by a government department/ government agency to be determined by Cabinet.	Add “Locksmith” to RESERVED BUSINESS ACTIVITIES.	
19	Remove “Blasting/Explosive/Pyrotechnic Services”, as it is a SPECIAL LICENSE that should be issued by a government department/ government agency to be determined by Cabinet.	Add “Fire Extinguishing Inspection Services” to RESERVED BUSINESS ACTIVITIES.	
20	Remove “Stevedoring”, as it is a SPECIAL LICENSE that should be issued by The Port Authority.	Add “Heavy Equipment Rentals” to RESERVED BUSINESS ACTIVITIES.	
21	Remove “Scheduled Air Transport Services (per aircraft)”, as it is a SPECIAL LICENSE that should be issued by The Civil Aviation Authority.	Add “House Sitting” to RESERVED BUSINESS ACTIVITIES.	

22		Add "Light Equipment Rentals" to RESERVED BUSINESS ACTIVITIES.	
23		Add "Beauty Salon" to RESERVED BUSINESS ACTIVITIES.	
24		Add "Accountancy and Bookkeeping- Other (not professionally qualified)" to RESERVED BUSINESS ACTIVITIES.	
25		Add "Architectural Firm- (1 to 3 Architects)" to RESERVED BUSINESS ACTIVITIES.	
26		Add "Bailiff Services" to RESERVED BUSINESS ACTIVITIES.	
27		Add "Delivery & Auxiliary Services" to RESERVED BUSINESS ACTIVITIES.	
28		Add "Professional Engineering Consultant" to RESERVED BUSINESS ACTIVITIES.	
29		Add "Professional Engineering Services" to RESERVED BUSINESS ACTIVITIES.	
30		Add "Secretarial and Administrative Services" to RESERVED BUSINESS ACTIVITIES.	
31		Add "Sole Practitioner/Professional - Accountant" to RESERVED BUSINESS ACTIVITIES.	
32		Add "Sole Practitioner/Professional - Lawyer/Legal Executive" to RESERVED BUSINESS ACTIVITIES.	
33		Add "Sole Practitioner/Professional - Architect" to RESERVED BUSINESS ACTIVITIES.	
34		Add "Sole Practitioner/Professional - Surveying Professional" to RESERVED BUSINESS ACTIVITIES.	
35		Add "Sole Practitioner/Professional - Professional Engineering Services" to RESERVED BUSINESS ACTIVITIES.	
36		Add "Sole Practitioner/Professional - Professional Engineering Consultant" to RESERVED BUSINESS ACTIVITIES.	
37		Add "Catering/Private Chef Services" to RESERVED BUSINESS ACTIVITIES.	



38		Add “Concierge Services” to RESERVED BUSINESS ACTIVITIES.	
39		Add “Water Sports Equipment Sales and Rentals” to RESERVED BUSINESS ACTIVITIES.	
40		Add “Air Charter Services (per aircraft)” to RESERVED BUSINESS ACTIVITIES.	
41		Add “Fixed Base operations” to RESERVED BUSINESS ACTIVITIES.	
42		Add “Tire Sales and Repairs” to RESERVED BUSINESS ACTIVITIES.	
43		Add “Water Sales Other” to RESERVED BUSINESS ACTIVITIES.	
44		Add “Commercial Marine Produce (seafood) Processing Plants” to RESERVED BUSINESS ACTIVITIES.	
45		Add “Wholesales Liquor Importer” to RESERVED BUSINESS ACTIVITIES.	



## CONSULTATION ON PROPOSED AMENDMENTS TO THE BUSINESS LICENSE ORDINANCE & REGULATIONS

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**\* Required**

Email:

1. Are you or do you represent any of the following? \*

☐ Sole Trader

☐ A Lawyer

☐ A Registered Agent

☐ Company

☐ Partnership

☐ Other:

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2. How many businesses do you have? \*

☐ None

☐ 1-3

☐ 4-6

☐ Other: \_\_\_\_\_

3. Which category does your license fall? \*

☐ Tourism Services

☐ Accommodation Services

☐ Wholesale / Retail

☐ Transportation Services

☐ Financial Services

☐ Other: \_\_\_\_\_

4. Do you believe that the current business licensing process requires review? \*

☐ Yes

☐ No

5. Business licenses are currently only valid for one (1) year from 1<sup>st</sup> April-31<sup>st</sup> March. At the end of this period, licenses must be renewed. Do you believe that licenses should be issued for multiple years?

☐ Yes

☐ No

6. If you are in agreement for a multi-year license, do you believe it should be for a period of

☐ Two (2) years; or

☐ Three (3) years.

7. There is a proposal for the establishment of a Board to consider applications for ~~bus~~ licenses. Do you agree that the establishment of a board would be the best option?

☐ Yes

☐ No

8. If no, please select one of the following:

☐ A Technical Committee (which will deliberate and advise on technical issues)

☐ Continue with the current process

☐ Both

9. Select the powers that the board should have:

☐ Approval of a License

☐ Refusing to grant a License

☐ Imposing any special conditions on a license

☐ Refusing to renew a license

☐ Delaying the Issuance of License

☐ Revoking a License

☐ None

10. The recommendation is for the Board to be comprised of the following:

› Director of Trade and Fair Competition;

› The head of the Inland Revenue Department;

› The legal advisor to the Ministry of Finance; and

› An economist from the Strategic Policy and Planning Department

Do you agree with this composition?

☐ Yes

☐ No

11. How often should the Board meetings should convene?

☐ The first week of every month;

☐ Weekly, or

☐ Bi-weekly.

12. The proposed amendment will remove the decision in regards to appeals and vest it in the Minister of Finance. The Minister will therefore have the authority in reference to appeals to do the following:

- Overturn any decision of the Board;
- Direct the Board to issue licenses and determine if there should be imposed any special terms and conditions and what;
- Direct the Board to cancel conditions and substitute/impose with another; and
- Restore licenses that have been suspended/revoked.

Do you agree that the authority detailed above should be vested in the Minister?

☐ Yes

☐ No

13. If the response to the above is No, which of the following do you believe it should be vested in:

☐ Permanent Secretary, Finance; or

☐ Magistrates Court.

14. Special conditions for licenses are currently determined by the Permanent Secretary, Finance. The proposed amendment is to have this done by the Minister in consultation with Cabinet. Do you:

☐ Agree with the proposed amendment; or

☐ Believe it should remain with the Permanent Secretary, Finance?

15. Do you agree that self-employed work permit holders should disclose their intention to hire others who will require work permits, during the application process? \*

☐ Yes

☐ No

16. Do you think that Turks & Caicos Islanders are the genuine benefactors of the reserved business activities or businesses in general?

☐ Yes

☐ No

17. The current term "Turks & Caicos Islander" in the context of business licensing means that the Turks & Caicos Islander holds 51% or more shareholding in the case of a Partnership and Company. The proposal is therefore to change it to the following:

- › Either add a category which gives 100% ownership meaning Turks & Caicos Islander will retain full ownership and there can be no outside investment; and/or
- › Change the current meaning to give a 2/3 majority minimum, meaning the Turks & Caicos Islander must have a minimum 67% shareholding or more.

Select your preferred option for the allocation of majority/complete TCIslander ownership:

- ☐ 100%; or
- ☐ 2/3 minimum or 67%; or
- ☐ Leave as 51% or more majority

18. Are you aware that there is fronting (holding or applying for a business on behalf of a person not qualified) of business licenses by Turks and Caicos Islanders?

- ☐ Yes
- ☐ No

19. Should fronting be made an offence?

- ☐ Yes
- ☐ No

20. Please indicate how licensees found to be fronting should be treated:

- ☐ License immediately cancelled;
- ☐ License immediately cancelled and the applicants face criminal prosecution for providing false information; or
- ☐ License cancelled, applicants face criminal prosecution for providing false information and a minimum fine of \$100,000 imposed along with jail time.

21. There is a classification of “restricted business activities” under Schedule 4 which requires consultation with the Minister. There are currently eighteen (18) activities which have been classified as restricted business activities. These include commercial fishing activities, commercial marine produce processing plants, distilleries, medical practices, law firms between 4-6 and greater than 6 and ambulance and emergency services etc.

It has been proposed that there be a reclassification of this, meaning that this classification be abolished and the business activities listed under the “Restricted” category be placed in the “reserved” category and some in the general category. Do you

- ☐ Agree there needs to be a reclassification; or
- ☐ The restricted category should remain as part of the Schedule.

22. There is a proposal to amend sections 3 & 6 of the Ordinance which now allow for the imposition of fines for non-compliance to be enforced by Officers of the Inland Revenue Department. Do you agree that the Inland Revenue Department and Permanent Secretary, Finance should be permitted to do so? \*

☐ Yes

☐ No

23. Under section 7 of the Ordinance a license is not transferrable. The proposed amendment to section 7 will expand the scope of the restriction on the transference of licenses to include partnerships and companies. Do you agree with this proposal?\*

☐ Yes

☐ No

24. Do you think that licenses should be transferred/transferrable?

☐ Yes

☐ No

25. Do you think that when shares are transferred and this affects the threshold of holding a business, a license should automatically be terminated?

☐ Yes

☐ No

26. Amendment to section 10 streamlines the process for suspension & revocation of licenses. Do you

☐ Agree with the proposed amendments;

☐ Disagree with the proposed amendments; or

☐ The current process to remain the same.

**(Please refer to page 16 of the “Proposed Amendments to Existing Provisions” table in the Consultation Document)**

27. Under the current regime where an application is not renewed by the 30th April it is not cancelled but accrues penalties for late renewal. This amendment will see licenses automatically cancelled on 1st May and license holders will have to reapply. Should licenses:

☐ That licenses should remain active and the current penalty regime remain; or

☐ Be cancelled to prevent the accruing of penalty. \*

28. The new amendment will also see those who fail to renew at the end of the licensing period commit an offence under section 3 and be subject to fine. Do you agree?

☐ Yes

☐ No

29. The Ordinance will permit the legal service of notices by email as opposed to only hand delivery. Do you agree with this amendment? \*

☐ Yes

☐ No

30. An administrative fee will be charged in relation to printing and photocopying of applications, certificates or related paper works. Do you think this will add to ease of doing business?

☐ Yes

☐ No

31. There are several amendments recommended under the Business Licensing Regulations- (Section 24). Please select the amendments you are in agreement with:

☐ License can be refused if the applicant has outstanding arrears with any Government Department;

☐ Repeal investor declaration require investor/owner work permit;

☐ Insert Self-Employed Work Permit, Permanent Residence Certificate-gainful occupation and/or Certificate of Naturalization. **(Regulation 3(2)(d)(ii))**

☐ All of the above

32. There will also be further amendments to the Fee Schedule. Do you agree this needs to be updated?

☐ Yes

☐ No

33. Are there any amendments or information/thoughts you wish to share?



## RESPONDING TO THE PROPOSAL

Please provide your comments by **3<sup>rd</sup> November, 2023** Via survey monkey at <https://www.surveymonkey.com/r/WT37W8R>

**The consultation period closes on 3<sup>rd</sup> November, 2023.**

1. The IRD is also interested in receiving general comments and feedback on the Proposal, and on any other related matters. Please feel free to respond to all, or some, of the questions.
2. Unless specifically requested otherwise, any responses received may be published either in part or in their entirety.
3. The purpose of the consultation is to gather information, views and evidence which will allow an informed decision to be made regarding the Proposal. As in any consultation exercise, the responses received do not guarantee changes will be made in accordance with what has been proposed.