THE MUNICIPAL CORPORATIONS (STREET VENDING) (AMENDMENT) BILL, 2001

Arrangement of Clauses

Clause

1. Short title
2. Interpretation
3. Section 2 amended
4. Part IX amended
5. Section 210 repealed and replaced
6. Section 211 repealed and replaced
7. Section 212 repealed and replaced
8. Section 213 repealed and replaced
9. Section 214 repealed and replaced
10. Section 215 repealed and replaced
11. Section 216 repealed and replaced
12. Section 217 repealed and replaced
13. Section 218 repealed and replaced
14. Section 219 repealed and replaced
15. Section 220 repealed and replaced

TWELFTH SCHEDULE

THIRTEENTH SCHEDULE

FOURTEENTH SCHEDULE
THE MUNICIPAL CORPORATIONS (STREET VENDING) (AMENDMENT)) BILL,
2001

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

The purpose of this Bill is to amend the Municipal Corporations Act, 1990 (Act No. 21 of 1990) to provide a system of licensing to allow street vendors to trade on a road, street, or highway lawfully. The Bill proposes a system for the granting of an annual or a temporary licence by the Council of a Municipal Corporation.

Clause 1 of the Bill would provide the short title.
Clause 2 would provide the interpretation section.
Clause 3 would amend section 2(1) of the Act to include a statutory tenant in the definition of “owner”.

Clause 4 would provide for the deletion of certain words in the heading of Part IX of the Act and the substitution of the words “STREET VENDOR”.

Clause 5 would repeal section 210 of the Act and substitute a new section 210, which will provide the definition of certain new words to be used in Part IX of the Act.

Clause 6 would repeal section 211 of the Act and substitute a new section 211. The new section 211 would allow a Council to designate, by resolution, a street within its Municipality, a prohibited or licensed street.

Clause 7 would repeal section 212 and substitute a new section 212. The new section 212 would provide a prescribed form to be used to apply for a street vending licence. A minor will not be granted such a licence, and certain grounds are stated on which an application for a licence may be refused.

Clause 8 would repeal section 213 and substitute a new section 213. The new section 213 would provide the principal and subsidiary terms of a street vending licence and the duration of such a licence, which is one year.

Clause 9 would repeal section 214 and substitute a new section 214. The new section 214 would provide for the granting of a temporary street vending licence which shall be valid for a day or a period not exceeding fourteen days.
Clause 10 would repeal section 215 and substitute a new section 215. The new section 215 would provide the grounds on which a Council may revoke a street vending licence or vary its principal terms.

Clause 11 would repeal section 216 and substitute a new section 216. The new section 216 would give a Council the power to grant or refuse a licence within 14 days of the application, but must first serve a written notice on the applicant to allow him to make representations concerning the proposed decision. A person aggrieved by a decision of the Council may appeal to the Minister and his licence will remain in force until the appeal is determined.

Clause 12 would repeal section 217 and substitute a new section 217. The new section 217 would set out the terms and conditions upon which a Council may grant a street vending licence, and which the Council may vary at any time.

Clause 13 would repeal section 218 and substitute a new section 218. The new section 218 would give a Council power to charge prescribed fees for the granting of a street vending licence and to impose certain charges on a street vendor.

Clause 14 would repeal section 219 and substitute a new section 219. The new section 219 would allow the Minister responsible for road words to make an Order to declare a highway or any part thereof a licence street for the purpose of street vending for not more than two days.

Clause 15 would repeal 220 and substitute a new section 220 and 220A. The new section 220 would create numerous street vending related offences, punishable on summary conviction. Section 220A would provide for who may lay an information against a person who commits an offence under this Part.

The Bill also insert three Schedules (Twelfth, Thirteenth and Fourteenth) to the Act.
BILL

AN ACT to amend the Municipal Corporations Act, 1990

[ , 2001]

Enactment

ENACTED BY THE Parliament of Trinidad and Tobago as follows:

Short title

1. This Act may be cited as the Municipal Corporations (Street Vending) (Amendment) Act, 2001

Interpretation

Act No. 21 of 1990


Section 2 amended

3. Section 2(1) of the Act is amended in the definition of the word “owner” by -

   (a) inserting after the words “or tenement” the words “including a statutory tenant”; and
   (b) deleting the words “other than as” and inserting the words “but not including”.

Part IX amended

4. The heading to Part IX of the Act is amended by deleting the words “PEDLARS, HAWKERS AND HUSTLERS” and substituting the words “STREET VENDOR”.

Section 210 repealed and replaced

5. Section 210 of the Act is repealed and the following section is substituted –

   “Interpretation
   210. For the purpose of this Part –
   “article” includes food, beverages, clothing, wares, goods, and other merchandise;
   “licensed street” means a street in which street
vending is prohibited without a licence, or temporary licence, granted by a Council;

“principal terms”, in relation to a street vending licence, has the meaning assigned to it by section 213(3);

“street” includes the whole or part of a highway, road, lane, footpath, square, alley or passage, whether a thoroughfare or not;

“street vending” means the selling or exposing of or offering for sale any article in a street;

“street vendor” means a person who is granted a street vending licence under this Part and who exhibits, displays, or offers for sale or sells any article in a street;

“subsidiary terms”, in relation to a street vending licence, has the meaning assigned to it by section 213(4)."

6. Section 211 of the Act is repealed and the following section is substituted –

211. (1) Subject to subsection (5), a Council may, by resolution, designate a street in its Municipality as –

(a) a prohibited street; or

(b) a licensed street.

(2) For the avoidance of doubt, no street shall be designated a licensed street during the period Monday to Saturday from 7am to 5pm if it is a street with established businesses.

(3) Subsection (2) does not prevent a Council from designating a street mentioned in that subsection as a
licensed street on a Sunday or Public Holiday.

(4) If a Council passes a resolution for the designation of a street, that designation shall take effect on the date specified in the resolution.

(5) A council shall not pass a resolution under subsection (1) unless –

(a) notice of the Council’s intention to pass such a resolution is published in two local daily newspapers;

(b) the Council has served a copy of that notice on the highway authority responsible for that street under the Highways Act; and

(c) where subsection (6) applies, the consent of the highways authority has been obtained.

(6) This subsection applies to a street maintained by a highway authority which a Council seeks, under subsection (1), to designate as a licence or prohibited street.

(7) The notice mentioned in subsection (5) shall—

(a) contain a draft of the resolution; and

(b) state that representations relating to it may be made in writing to the Council not later than fourteen clear days after the date of publication of the last notice.

(8) A Council shall consider the
representations relating to the proposed resolution which they have received only during the period specified in subsection (7).

(9) A Council, after consideration of these representations, may pass a resolution designating the street in accordance with subsection (1).

(10) A Council shall publish notice once during two consecutive weeks in each of two local daily newspapers that they have passed the resolution and the first publication of the notice shall not be later than ten clear days after the day specified in the resolution.

(11) A resolution passed under this Part may be varied or rescinded by a subsequent resolution so passed.”

Section 212 repealed and replaced

7. Section 212 of the Act is repealed and the following section is substituted –

“Street vending licence
Twelfth Schedule

212.(1) An application for a street vending licence shall be made to a Council in the Form set out in the Twelfth Schedule.

(2) The applicant shall state –

(a) his name and address;

(b) the street in which, days on which and times between which he desires to trade;

(c) the description of articles in which he desires to trade

(d) the description of any stall or container which he desires to use in connection with his trade in those articles; and
(e) such other particulars as a Council may reasonable require.

(3) A Council may refuse to grant a street vending licence on the following grounds –

(a) that there is not enough space in the street for the applicant to engage in the trading in which he desires to engage in without causing undue interference or inconvenience to persons using the street;

(b) that there are already enough vendors trading in the street from established shops or businesses in the articles in which the applicant desires to trade; or

(c) that the applicant had been granted a licence by the Council and had persistently refused or neglected to pay fees or charges due to the Council for services rendered by it to him as a licence holder.

(4) Notwithstanding that a Council considers that grounds for refusal exist under subsection 3(a) or (b), it may grant the applicant a street vending licence which permits him to -

(a) trade on fewer days or during a shorter period on each day; or

(b) trade only in one or more of the description of articles, which he specified in his application.
(5) If -

(a) a person is licensed or otherwise authorised to trade in a street under any other written law;
(b) the street becomes a licensed street;
(c) the person was trading from a fixed position in the street immediately before it became a licence street; and
(d) he applied for a street trading licence to trade in the street,

his application shall not be refused on the grounds specified in subsection (3)(a) or (b).”.

8. Section 213 of the Act is repealed and the following section is substituted -

“Principal and subsidiary terms of licence

Thirteenth Schedule

213.(1) A street vending licence shall be in the Form specified in the Thirteenth Schedule and shall specify –

(a) the name, address and date of birth of the street vendor;
(b) a licence number;
(c) the street in, days on and times between which the street vendor is permitted to trade;
(d) a description of the article in which he is permitted to trade;
(e) any other matter which a Council considers relevant.

(2) If a Council determines that a street vendor
is to confine his vending to a particular place in the street, his street vending licence shall define that place.

(3) For the purpose of this Part, matters specified in a street vending licence under subsections (1) and (2) are referred to as the “principal terms” of the licence.

(4) Without prejudice to subsection (3), when granting a licence, a Council may attach such further conditions (hereinafter referred to as “the subsidiary terms”) as appear to it to be reasonable.

(5) The subsidiary terms of a licence may include -

(a) specifying the size and type of any stall or container used for street vending;

(b) prohibiting the street vendor from the leaving of refuse or the restricting of the amount of refuse which her may leave or the places in which he may leave it; and

(c) requiring that any stall or container so used shall carry the name of the street vendor and the number of his licence.

(6) A street vending licence shall, unless previously revoked or surrendered, remain valid for a period of twelve months from the date of its issue.

(7) A street vendor shall ensure that his street vending licence is clearly displayed at all times at the place from which he is trading.
(8) Whenever a person to whom a Council has issued a licence under this Part changes his residence or place of business, he shall immediately give written notice thereof to the Chief Executive Officer and at the same time produce the licence to the Chief Executive Officer who shall thereupon endorse a memorandum specifying the particulars of the change.

(9) Where a Council resolves that the whole or part of a licence street shall be designated a prohibited street, then, on that designation taking effect, any street vending licence issued for trading in that street shall cease to be valid so far as it related to the prohibited street.”.

Section 214 repealed and replaced

9. Section 214 of the Act is repealed and the following section is substituted -

“Temporary street vending licence

214.(1) A Council may, on the receipt from any person of an application for that purpose, grant to that person a temporary street vending licence.

(2) An application for a temporary street vending licence shall be made to a Council in the Form set out in the Twelfth Schedule.

(3) A temporary street vending licence shall be valid only on the day or during a period, not exceeding fourteen days, in respect of which it has been granted.

(4) A temporary street vending licence shall be in the Form set out in the Thirteenth Schedule.

(5) Sections 212 and 213 shall apply to a temporary street vending licence.”.
Section 215 repealed and replaced

10. Section 215 of the Act is repealed and the following section is substituted -

"Council may revoke street vending licence

215.(1) A Council may revoke a street vending licence, including a temporary street vending licence, where it considers –

(a) that owing to circumstances which have arisen since the grant of the licence, there is not enough space on the street for the street vendor to engage in the street vending permitted by the licence without causing undue interference or inconvenience to persons using the street;

(b) the street vendor has persistently refused or neglected to pay fees or charges due to the Council for services rendered by it to him in his capacity as a licence holder;

(c) that since the grant of the licence, the street vendor has without reasonable excuse failed to avail himself of the licence within ten clear days; or

(d) that the street vendor in the course of his trade has been convicted of an offence under the Litter Act.

(2) If a Council considers that it has grounds for revoking a licence by virtue of subsection (1)(a) or (b), it may, instead of revoking the licence, vary its principal terms –

(a) by reducing the number of days or the period of time in any one day during which the licence holder is permitted to trade; or
(b) by restricting the description of articles in which he is permitted to trade.

(3) A licence holder may at any time surrender his licence to the Council and it shall then cease to be valid.”.

11. Section 216 of the Act is repealed and following section is substituted -

“Council may grant or refuse licence

216.(1) When a Council receives an application for a street vending licence, or a temporary street vending licence, it shall within fourteen days -

(a) grant a licence in the terms applied for; or
(b) serve notice on the applicant under subsection (2).

(2) Where the Council proposes -

(a) to refuse to grant a licence;
(b) to grant a licence on principal terms different from those specified in the application;
(c) to grant a licence confining the applicant’s vending to a particular place in a street;
(d) to vary the principal terms of a licence; or
(e) to revoke a licence,

it shall first serve a notice on the applicant -

(i) specifying the grounds of the proposed decision; and
(ii) stating that within fourteen days of receiving the notice he may, in writing, make
representations concerning the proposed decision.

(3) Where notice has been served under subsection (2), the Council shall not determine the matter until either -

(a) the applicant has made written representations to the Council concerning its proposed decision; or
(b) the applicant has failed to make written representations within the period specified in the notice.

(4) A person aggrieved -

(a) by the refusal of a Council to grant a licence where –

(i) it specified in its notice one of the grounds specified in section 212(4)(a) to (c) as the only ground on which its decision would be based; or
(ii) the Council specified more than one ground in that notice but all the specified grounds were grounds specified in section 212(4)(a) to (c); or

(b) by the decision of a Council -

(i) to vary the principal terms of a licence; or
(ii) to revoke a licence,
in a case where the Council specified in their notice one or more of the grounds specified in
section 214(1)(b) to (c) as the grounds on which their decision would be based, may, at any time before the expiration of twenty-one days beginning with the date upon which he is notified of the refusal or decision, appeal to the Minister.

(5) If -

(a) a Council decides –
   (i) to vary the principal terms of a licence or
   (ii) to revoke a licence; and

(b) a right of appeal is available to the licence holder under this section, the variation or revocation shall not take effect unless the time for bringing an appeal has expired or, where an appeal is duly brought, until the determination or abandonment of the appeal.”.

Section 217 repealed and replaced

12. Section 217 of the Act is repealed and the following section substituted -

“Terms and conditions of a licence

217.(1) A street vending licence shall not be granted to a person who -

(a) is under the age of eighteen years;
(b) has a criminal record; and
(c) is not a citizen of this country.

(2) When granting a street vending licence a Council may attach such conditions to it as the Council consider reasonably necessary.

(3) Without prejudice to the generality of subsection (2), the conditions that may be attached to a street vending licence may include conditions to prevent -
(a) obstruction of the street or danger to persons using it;
(b) nuisance or annoyance to persons using the street;
(c) vending on certain days and hours.

(4) The Council may at any time vary the conditions of a street vending licence.

(5) Subject to subsection (6), the holder of a street vending licence shall not trade in a prohibited street.

(6) The Council may include in a street vending licence permission for its holder to trade in a prohibited street -

(a) from a stationary van, car, barrow or other vehicle; or
(b) from a portable stall.

(7) Where the Council includes any permission, as specified in subsection (6), it may make the licence subject to conditions -

(a) as to where the holder of the street vending licence may trade by virtue of the permission; and
(b) as to the times or periods during which he may trade.

(8) No person shall be granted more than one street vending licence.”.

13. Section 218 is repealed and the following section is substituted -

“Fees for licence
Fourteenth Schedule

Section 218 repealed
and replaced

218.(1) A Council may charge such fees as are specified in the Fourteenth Schedule for the grant of a street vending licence or a temporary street vending licence.
(2) A Council may determine fees for granting a licence and, in particular but without prejudice to the generality of this subsection, may determine fees according to:

(a) the duration of the licence;
(b) the street in which it will allow street vending; and
(c) the description of articles in which the street vendor is authorised to trade.

(3) A Council may require that an application for the grant of a licence shall be accompanied by so much of the fee as the Council may approve, by way of a deposit to be repaid by the Council to the applicant if the application is refused.

(4) A Council may recover from a street vendor such reasonable charges as they may determine for the collection of refuse, the cleaning of the street and other services rendered by it to him in his capacity as a street vendor.

(5) If a licence:

(a) is surrendered or revoked; or
(b) ceases to be valid under this Act,
a Council may remit or refund, as they consider appropriate, the whole or part of:

(i) any fee for the grant of the licence; or
(ii) any charges recoverable under subsection (4).
(6) A Council may determine that charges under subsection (4) shall be included in the fee payable under subsection (1) or that they shall be paid separately.

(7) Before determining the charges payable under Subsection (4) or varying the amount of such charges, a Council shall –

(a) give notice of the proposed charges to the street vendor; and

(b) publish notice of the proposed charges twice in each of the two daily newspapers, and the notice shall specify a reasonable period within which representations concerning the proposed charges may be made to the Council.

(8) Before making a decision under subsection (4), a Council shall consider representations which are made to it within the period specified in subsection (7).”.

Section 219 repealed and replaced

14. Section 219 is repealed and the following section is substituted -

“Temporary street vending on highways

219.(1) Notwithstanding section 211, the Minister to whom responsibility for public works is assigned may, on the recommendation of the Minister, by Order, declare a highway or part thereof under the Highway or part thereof under the Highways Act a licence street for the purpose of street vending.

(2) The area to be designated by the Order under subsection (1) shall be clearly delineated by a plan or map which shall be attached to the Order.

(3) An Order made under subsection (1) shall be valid for not more than two days.”.
Section 220 is repealed and the following sections are substituted -

15. "Offences"

220.(1) A person who-
   (a) unlawfully engages in street vending in a prohibited street;
   (b) engages in street vending in a licence street without a licence;
   (c) contravenes any of the principal terms of street vending licence;
   (d) being authorised by a street vending licence to trade in a prohibited street, trades in that street from –
      (i) a stationary van, cart, barrow or other vehicle;
      (ii) a portable stall;
   without having been granted permission to do so under section 217(6);
   (e) contravenes a condition imposed under section 217(7);
   (f) unlawfully engages in street vending in any street;
   (g) fails to comply with section 213(8); or
   (h) engages in street vending outside of the area designated by an Order made under section 219, or after the Order has expired,
   commits an offence and is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for two years.

(2) A person who in connection with an
application for a street vending licence or a temporary street vending licence makes a false statement which he knows to be false in any material respect or which he does not believe to be true, commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for one year.

(3) A person who forges or counterfeits, or causes or procures to be forged or counterfeited, any document purporting to be a licence issued under this Part commits an offence and is liable on conviction on indictment to imprisonment for three years.

(4) A person convicted of two or more offences under this Part in any one year shall not be granted a licence under this Part for a period of one year from the date of the second conviction, and in calculating the one year period for refusing to grant a licence, any period spent on appellate proceedings shall not be included in computing that one year period.

220A. Without prejudice to any other law, an information or complaint against a person for an offence committed under this Part may be laid or made by and in the name of a Municipal Police Officer, or an authorised officer of the Municipality within which the offence was committed.”.
APPLICATION FOR STREET VENDING LICENCE OR TEMPORARY STREET VENDING LICENCE*

I……………………………………………of ……………………………………………

(Applicant’s Name)    (Address)

hereby apply for a street vending licence or temporary street vending licence* in accordance with the Municipal Corporations Act, 1990.

I am over eighteen years of age (………………………………)

(Date of Birth)

Identification No. (………………………………………………………………………)

   Driver’s Permit;   I.D. Card;   Passport; or Other.

State the street and days on which and times between which you desire to trade:

  Street…………………………………………………………………………………;
  Days…………………………………………………………………………………;and
  Time…………………………………………………………………………………

Give a brief description of the articles in which you desire to trade:

………………………………………………………………………………………

(Brief description of articles for trading)
Would any stall or container would be used in connection with your street vending? 
(Yes or No).

If yes, give a brief description of the stall or container:……………………………………
……………………………………………………………………………………………………

Other Particulars:………………………………………………………………………………

Dated this …………………..day of…………………………………………,20………….

……………………………………...

(Applicant’s Signature)

Fees: $……………………

(* Delete whichever is not applicable)

NOTE:

(1) To be prepared in duplicate-one copy to be returned to the Applicant after being stamped by the receiving officer.

(2) A person is not entitled to more than one street vending licence.
THIRTEENTH SCHEDULE

FORMS OF STREET VENDING LICENCE OR TEMPORARY STREET VENDING LICENCE*

TO:

………………………………………………………………..
(Applicant’s Name)
………………………………………………………………..
(Address)

You are hereby granted a street vending licence or temporary street vending licence* in accordance with the Municipal Corporations Act, 1990.

YOUR LICENCE NO IS: ………………………………………………………………

TERMS AND CONDITIONS OF LICENCE:

1. STREET:
2. DATE:
3. TIME:
4. DESCRIPTION OF THE ARTICLES IN WHICH YOU ARE PERMITTED TO TRADE:
5. SIZE AND TYPE OF STALL OR CONTAINER YOU CAN USE FOR TRADING:
6. OTHER PARTICULARS:

Dated this …………………….day of……………………………………….., 20……….……..

……………………………
(Officer’s Signature)

(*Delete whichever is not applicable)

NOTE: Your licence must be clearly displayed at the place where you are vending.
FOURTEENTH SCHEDULE

FEES FOR STREET VENDING LICENCES AND TEMPORARY STREET VENDING LICENCES

$200.00

Application fee for street vending licence ................................................200.00

Application fee for temporary street vending licence ............................... 25.00

Other fees ..........................................................................................

Passed in the House of Representatives this day of , 2001.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of , 2001.

Clerk of the Senate

I confirm the above.

President of the Senate.