



Starting a Business in Tonga

Ministry of Labour, Commerce & Industries

Obtaining a Licence for a Construction Firm

1.0 Overview

Any person or corporate entity seeking to engage in a construction business is required by the Business Licences Regulations to obtain a letter of approval from the Ministry of Works before being issued a Business Licence by MLCI. There is no actual governing legislation concerning the issuing of approvals from the Ministry of Works; the Building Controller's Division works under an interpretation of the Building Control and Standards Act of 2002, which authorizes the Building Controller to issue building permits that allow a building to be erected. The letter of approval came about via consultations between the Controller and MLCI in order to assist MLCI's licence issuance team (who may not have the proper knowledge of construction) and is only 2-3 years old.

2.0 Powers of the Ministry

2.1 General Powers

The Minister of Works, unlike other Ministers in

Tongan legislation, is mostly removed from the process of the approval letter. The only statutory authority given to the Minister of Works is for appeals of the building permit and to dismiss from particular proceedings any Ministry employee who may have an interest in a particular permit. Otherwise, all statutory authority for permit review is given to the Building Controller and his staff.

This concentration of authority extends to the letter of approval process as well, as the Building Controller is the person who meets with the applicants, interviews them on their knowledge of the Act and construction business procedures, and issues the letter of approval or rejection to MLCI. In the event that the Building Controller is not available he can delegate to members of his staff the ability to issue the letter.

2.2 Licensing

As noted above, there is no statutory authority for the Ministry of Works to issue approvals for businesses wishing to work in the field of construction. The procedure was devised by the

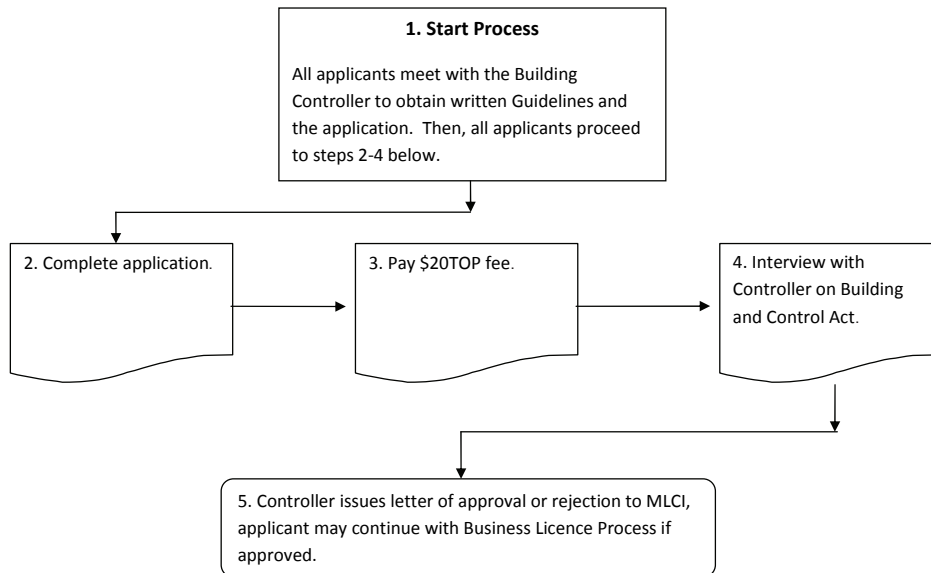
Building Controller in consultation with the MLCI, and the Controller also created the form that businesses must fill out as part of the process. As with the Business Licence, renewal applications must be submitted annually.

It is possible for the Controller to refuse to issue a letter of approval or a renewal. Given the lack of statutory authority in the letter process, there are also no formal criteria by which an applicant may be rejected. It is unclear if the appeal process which applies to building permits also applies to the letter of approval process.

Files regarding applicants are kept in the office of the Building Controller.

2.3 Fees

While the 2002 Act allows for fees to be charged for building permits, there is no explicit authorization for fees to be charged for the letter of approval. As of January 1, 2009, the Ministry charges firms 20 pa 'anga for their interview and decision to the MLCI; prior to this year, fees were not charged.



3.0 Licence Application Process

3.1 Overview

Applications are processed in the main office of the Ministry of Works in Nuku'alofa. Applications can be submitted to the local offices in Ha'apai and Vava'u, but they are sent to the main office for processing and there is a low volume of requests that come from the other island groups. For all businesses in the Tongatapu group, they have to be physically present in the office of the Controller for their application. Applications are not available on the internet.

3.2 Process Flow

The chart above shows the steps that an applicant must follow in order to obtain a letter of approval from the Ministry of Works.

3.3 Narrative Accompanying Process Flow

The following provides a box-by-box narrative related to the flow chart above.

3.3.1 – Box 1. All applicants must visit the Ministry of Works in order to obtain the appropriate application forms and the written guidelines.

3.3.2 – Box 2. The applicant should complete the Application to the best of their ability. The application contains information such as the background of the applicant and their experience in the construction field.

3.3.3 – Box 3. The applicant must now pay an application fee of 20 pa 'anga.

3.3.4 – Box 4. The interview is the most important part of the application, as it allows the Controller to assess the business' state of knowledge of the relevant regulations and their ability

3.3.5 – Box 5. The Controller decides whether or not the application is valid and issues a letter to MLCI. If the application is approved, the applicant may continue with the Business Licence process through MLCI.

4.0 Renewals

The renewal process coincides with the Business Licence renewal and, in general, is easier for a firm than the initial interview. The Controller uses the renewal process to review if any complaints have been lodged against the firm seeking the renewal and asks the firm owner to respond to these complaints.

This is not a legal document and is provided solely for reference. Processes are subject to change.

Contact Information

To obtain a letter of approval from the Ministry of Works, contact:

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Ministry of Works

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