



Starting a Business in Tonga

Ministry of Labour, Commerce & Industries

Obtaining a Licence for Services Involving the Use of Gases

1.0 Overview

A firm that wishes to engage in “services involving the use of gases” is required by the Business Licence Regulations of 2006 to obtain a “letter of approval from the Department of Environment” of the Ministry of Lands, Survey, and Natural Resources (MLSNR) before being issued a Business Licence by the Ministry of Labor, Commerce, and Industry (MLCI). The term “gases” is not defined in the Business Licence application, but in practice refers to ozone-depleting gases as well as import of materials in gaseous form.

The governing legislation concerning the issuing of approvals from the Department is the Consumer Protection Act of 2000 and the Product Safety and Labeling Regulations of 2006. The Consumer Protection Act gives the Minister for Labor, Commerce, and Industry wide discretion to prescribe safety standards, measures or specifications that “are reasonably necessary to prevent or reduce risk of injury to person or damage to property or equipment.” Requiring a letter of approval for services involving gases, as

the Business Licence regulations does, is part of the Minister’s exercise of discretion.

The specific process that the Department follows has been in place since 2004 but is not contained in any legal or regulatory vehicle. Similarly, the list against which the Department decides to approve or decline applications is contained in the Ozone Layer Protection Bill of 2004, which has a Schedule of Controlled Substances. However, the Bill has not yet been approved by the full Cabinet and as such is just a guideline to the Department’s decision-making process.

2.0 Powers of the Director of Environment

2.1 General Powers

The Director of Environment signs the approval letter based on the recommendation of staff. There is no other formal involvement of the Director in the process.

2.2 Licensing

Firms wishing to undertake major projects must

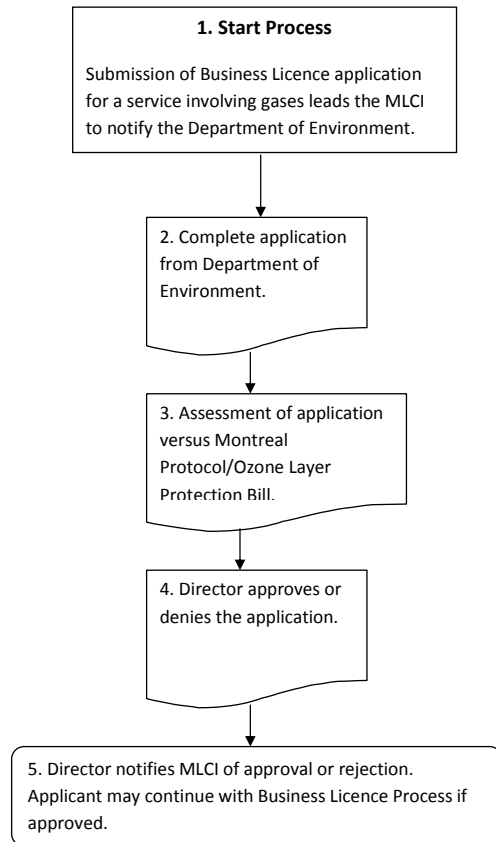
submit an application form to the Department of the Environment, obtainable from the Department, which lists the gases that will be imported or utilized. The application asks for:

- Name of applicant
- Import registration number
- Person authorized to act on behalf of the company
- Contact address
- Telephone, fax numbers, and e-mail addresses
- Types of pure chemicals, quantity, and intended use
- Types of mixtures, quantity, and intended use
- Certification of authenticity

2.3 Fees

There are currently no fees charged for obtaining a letter of approval from the Department of Environment for services involving gases.

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3.0 Licence Application Process

3.1 Overview

Applications are processed at the Department of the Environment in Nuku'alofa. Applications are submitted on a form designed by the Department once the MLCI has notified the Department of a firm's intent on using gases.

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 Department of the Environment. The information below explains each step in the process.

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. Upon submitting a Business Licence application to the MLCI involving the use of gases, MLCI notifies the Department of the Environment.

3.3.2 – Box 2. The Department contacts the applicant and requests the firm to fill out the Department's application form, including the list of chemicals that are proposed to be used.

3.3.3 – Box 3. Upon receipt of the application form, an Assessment Officer checks the proposed chemicals against the Ozone Layer

Protection Bill of 2004, which is modeled on the Montreal Protocol (to which Tonga is a signatory). If the Assessment Officer is satisfied that the application is not in contravention of this protocol and the chemicals proposed are not prohibited by the Bill, a recommendation will be made to the Director of Environment to approve the application. If the proposed chemicals are on the list, the application is forwarded with a recommendation for rejection.

3.3.4 – Box 4. The Director either approves or denies the application, based upon the recommendation of staff.

3.3.5 – Box 5. MLCI is notified of the Director's decision, and the Business Licence can either proceed or is rejected.

4.0 Renewals

As with the Business Licence, renewal applications must be submitted annually, and the same form is utilized. The same process is followed, as any change of gases used must be checked against the prohibited list held by the Department.

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

Contact Information

To receive a letter of approval for services involving the use of gases, contact:

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Director of Environment

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