

Q. What is a Vendor?

A. A Vendor is a person who sells, offers, or exposes goods for sale to passersby from a stall.

Q. What is Vending?

A. Vending means selling goods by retail to passersby in a public place and includes offering or exposing goods for such sale. It no longer means selling door to door. The following activities are not vending under the Vending Act:

- the sale of goods by licensed Auctioneer;
- the sale of agricultural produce or horticultural produce;
- the sale of fish by a registered fisherman;
- supplying a service;
- the sale of food and drink by a person temporarily licensed to operate a food stall by the Department of Health;
- the sale of Bermuda-made products;
- selling newspapers;
- selling goods only at a fair, carnival, circus, or public exhibition; or
- selling goods where the profits are used solely for a charitable purpose.

Q. Why create updated vendor legislation?

A. Through research conducted with various Government departments, the public, vendors, and key stakeholder, the following key issues and concerns were identified:

- Outdated legislation not compatible with modern legislation internationally.
- The roles of the Justice of the Peace in vetting Pedlar certificate applications has diminished significantly as many are now deceased.
- Lack of tracking system to be advised of expired Pedlars certificates.
- There is no Identification Number assigned to an application/certificate which would enhance the ability to manage pedlars.
- There is no provision in the Pedlars Act 1894 barring a holder of a work permit from applying for a Pedlars Certificate.
- Vendors are considered businesses, although occasional, and as such must currently pay payroll tax.
- The municipalities wish to have a process to verify the status of all vendors wishing to participate in their events.
- Lack of a clear method for suspending pedlars licenses if vendors repeatedly act in contravention of the Municipalities Act 1923.
- Concern about growing roadside vendors and the impact on the islands verges from litter and vermin resulting in excessive costs in maintenance the verges.
- Risk associated with the growth in roadside vending from a road safety and consumer safety perspective.
- Lack of awareness by vendors on The Sale of Goods Act and their roles as responsible traders.
- Concern about growing unfair business practices and the sale of copyrighted goods, which is in contravention of current laws that govern Bermuda (Section 136 of Copyright and Design Act).

Q. Where do I get a Vending License?

A. Bermuda Economic Development Corporation, First Floor, Sofia House, #48 Church Street, Hamilton HM 12 – Telephone 292-5570 – Email info@bedc.bm

Q. How much does a Vending License cost?

A. \$100 payable at the time of the application for an annual license - \$25 payable at the time of the application for a 3-month license.

Q. What are the requirements to be eligible for a Vending license?

A. A Vendor can only be Bermudian, Spouse of a Bermudian, or PRC holder. A Vendor must be 16 years or older to receive a vendor license.

Q. What form do I need?

A. See Vending License Checklist.

Q. How long does it take to have a Vending License issued?

A. Three (3) working days.

Q. What happens to vendors if they already have Pedlars Certificate?

A. The Vendor will be grandfathered in and receive a Vendors License without fee until December 31st 2016. After which they'll renew as a Vendor.

Q. Will the Act prevent anyone under 16 years old from vending?

A. No. The parents/guardians of these youth can make application on their behalf so they can vend as in the past. They will still be permitted to vend on their own property without a permit as well.

Q. Will the Vending Act increase government bureaucracy? Is government being overbearing in trying to control who can be a vendor in Bermuda?

A. There is no increase in bureaucracy however there is a more efficient processes, but also access to benefits that BEDC brings to the table. Currently over 200 vendors are voluntarily registered with BEDC when they don't have to be. Because they see the benefit being associated with BEDC provides for their businesses. The new act "legitimises" the current role we play.

Vendors who vend on their own private property do not require permission. If they have permission to vend on other private property they would only require the vending license as a vendor selling "goods". Goods are imported products for sale – not locally-made, home-grown items.

The Executive Director will not be arbitrarily designating any private properties as designated vending areas unless BEDC negotiate with that property owner to establish a market (such as in Uptown Market) or vendors come to BEDC for help in facilitating a vendor market (such as Hidden Treasures Market).

The table below sets out the similarities and differences between the 2 acts.

**VENDING ACT 2015
FREQUENTLY ASKED QUESTIONS**

Pedlars Act 1894	Vendors Act 2015	Result
Currently anyone engaging in peddling as per the pedlars act are required to fill out an application and be approved for a pedlars certificate first.	The new vending act requires the same.	Same
The pedlars act currently requires a register of pedlars be available. Magistrate's Court has indicated this has been an issue for them and could not tell us who, how many, where, when they expire, etc.	The new vending act requires a register and it would be linked in with the BEDC business register.	Same
The pedlars act does not require fishermen, farmers, persons who make locally-made/home-grown items to get a pedlars certificate.	The new vending act follows the same.	Same
Currently pedlars are required to gain permission to peddle/vend on road-side verges/public land. Many vendors don't do this.	The new vending act explicitly states this and indicates the process to do so. There is an expectation that permission will be given as opposed to held. However there must be a way to hold vendors accountable for trash and litter, traffic congestion and accidents, impact on neighbourhood areas if this is an issue.	Same.
The pedlars act has fines for offences.	The new vending act has similar and in most cases a lower fine amount.	Same. The only difference is the introduction of a ticketing system.
The administration of this industry will move from Magistrate's court which focus was on the legal requirement	The move to BEDC will allow a broader focus on entrepreneurship and growth of micro-enterprise.	Administrative Change. BEDC already has a database system to manage businesses.
The pedlars certificates currently required a JP to sign off on the form and 3 residents from the parish the person lives in. This has been challenging to get at times.	The new vending act does not require a JP but 3 references from anyone throughout Bermuda.	Change. This will make it easier to submit a completed form.
Currently pedlars get a 2-year certificate.	The new vendors act gives choices for 1 year licenses and for the first time 3-month licenses at \$25 if	Change. Choices are offered here which is a good thing.

**VENDING ACT 2015
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	persons don't want to commit to longer periods.	
The pedlars certificate is for 2 years. (\$90)	The vending license is for 1 year. (\$100)	Change. This is to enable a more efficient way to monitor vendors as some are operating with expired certificates.
The pedlars act did not require any ID to be submitted with application. The previous process at no point verified the eligibility of the person to be a vendor.	The new vendors act will require a photo ID to be submitted.	Change. The new process allows for more protection and recourse for the consumer.

Q. What is the difference between the proposed new fees and existing fees?

A.

	Pedlars Act 1894	Vending Act 2015
	Fees	
Pedlars Certificate/Vendors Licence	\$90 (2 years)	\$100 (1 year)
Temporary Licence	N/A	\$25 (3 months)
	Offences	
Vending without a certificate/licence	\$144 – 1 st offence \$576 – subsequent offences	\$500
Vending outside designated area	N/A	\$350
Failure to produce/display licence	\$288	\$250
Inspect pedlars pack	\$288	N/A
Transferring/lending licence	\$576	\$350
Borrowing licence	\$576	\$350
False licence	\$720 – 1 st offence \$720/6 months – subsequent offences	\$250
General penalty before court of summary jurisdiction	N/A	\$1,000

Generally the fees under the new Vending Act 2015 are less than the Pedlars Act 1894

Q. How many businesses will BEDC now serve through this expanded remit?

A. It is difficult to estimate as there is no consistent record currently at Magistrate's Court with regards to the number of active Pedlars Certificates. BEDC currently has a list of over 200 vendors. We suspect that the number could easily reach 500 vendors.

Q. How will decisions be made in allocating vending areas?

A. The following will be the criteria:

- Accessibility to a suitable location
- Suitable off-road parking (from a safety perspective)

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- Minimal negative impact on traffic/accidents (from a safety perspective)
- Lavatory facilities provided (from a sanitary perspective)
- A plan to manage waste/trash and decrease vermin
- Access to electricity/lights if needed (from a safety perspective)
- Impact on neighbours – especially if in residential areas (from a community perspective)
- Minimum negative impact on flora/fauna

It is anticipated that BEDC will continue to work with vendors and facilitate their desire to identify sites that make sense to them. This is currently how it has worked with the 4 market sites facilitated by BEDC – these were driven by vendors.

Q. Will vendors be able to access BEDC business register data?

- A. Yes they will. As a business on the business register they will receive the same rights and benefits as any other business on the register. They will be able to use the data to determine competitors, growth in numbers, gaps in the market, etc.

Q. Is a Vending License what I need to set up along the roadside?

- A. No. The Corporations of Hamilton and St. George have laws that prohibit this type of activity. Permission from the Department of Public Works and the Department of Parks would have to be received in order to vend along the roadside and in public parks. If there is interest in vending along the roadsides and in public parks, vendors should submit their requests in writing to BEDC to forward to the appropriate department/agency. BEDC will liaise with that department/agency on the request and provide the response back to the vendor.

Q. What are the rules for vending in the City of Hamilton?

- A. A vending license will allow a person to sell island-wide, however, under the Hamilton Traffic & Sidewalks Ordinance 1988 “No person shall sell or offer or expose for sale any goods or services on any street or in any City car park...” and any person doing so is liable for prosecution. The Corporation of Hamilton does make provisions for vendors through events, etc. time to time. Please contact the Corporation of Hamilton at 292-1234 or info@cityhall.bm for further information.

Q. How will the Act benefit the vendor community?

- A. As the BEDC provides advocacy, training, advice, and support to vendors and has an existing business register as infrastructure, transferring authority to BEDC will immediately give a voice to the growing industry and allow for oversight from an entrepreneurship viewpoint. Act to reflect the growth of its remit. The Vendors would also be included in the BEDC Business Register Database which can provide the business owner with access to data, reports, and learning opportunities which will only enhance their operations.

Vendors will immediately have access to preferential rates/terms and incentives/concessions the BEDC has been able to and will negotiate on their behalf. This includes access to infrastructure resources (i.e. tents, tables, chairs, etc.); discounted professional services; financing, etc. BEDC has a specific financial product for vendors with the BEDC Clarien Micro-loan – 100% guaranteed loans up to \$7,500 each with multiple applications allowed. Also, the new Letter of

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Credit programme in partnership with HM Customs, allows vendors to import goods for retail sale and defer payment of duty for up to 3 months, through a HM Customs line of credit up to a maximum of \$10,000 secured by a BEDC guarantee.

Registered vendors get access to the power of collective marketing and promotion through an established organisation that cannot be achieved going it alone. Vendors also get access to opportunities presented such as through BEDC's partnership with the America's Cup. The BEDC is already helping vendors fine-tune their proposals to have the best chance at success. Vendors also get access to timely and robust information and data from BEDC's business register to assist their business.

Finally, later in 2015 BEDC will be introducing an annual "Best Of" competition for registered vendors voted on by the public, the consumers who determine which vendors stand out above the rest.

Q. Under what circumstances might someone be found to "fit and proper" after revocation of a vending license?

A. The "fit and proper" test was also contained in the Pedlars Act and commonly in English law generally refers to someone who has not committed offences involving any of the following: fraud, dishonesty, or violence. If the law has been broken the vendor will have to make restitution and serve the sentence. If an individual has had their permit revoked or cancelled for fraud, dishonesty, or violence, in order for the permit to be reinstated the applicant would be required to appear before the Executive Director of BEDC and appeal to have their permit reinstated after at least 1 year of restitution.

Q. What happens if my application is not approved?

A. You may appeal the decision to the Permanent Secretary. You will be required to put the appeal in writing and submit to the Permanent Secretary within 21 days of the application decision.

Q. Why is it the Permanent Secretary who reviews appeals?

A. It was determined that best practice moving forth is to decrease the reference to appeals to the Ministers in Bermuda's legislation and to assign that responsibility to senior public officers in the Civil Service. This should ensure consistency in the decision-making process over time and changes in administrations.

Q. Will this legislation force vendors to vend in only BEDC sanctioned markets?

A. No. Vendors can make a case to the Executive Director to designate other areas on their behalf as long as they provide a plan on how they will manage the area effectively. Vendors can also apply for permission to vend on public land and parks land from the Ministry of Public Works and the Department of Parks. Lastly, vendors who vend on their own private property can do so as long as they have a Vending License where required, and they can do so within the planning/zoning rules for their property.

Q. How can I find out more information?

A. Please read the Vending Act 2015 available on BEDC's website www.bedc.bm or on www.bermulalaws.bm. Feel free to contact us at info@bedc.bm or 292-5570.