

Press Release

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SOUTH AFRICAN
INSTITUTE OF
RACE RELATIONS

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Ten Years for Unlicensed Hawking

The Department of Trade and Industry (DTI) has unveiled plans to restrict hawking which go far beyond anything the National Party government did in its efforts to control black business, says the South African Institute of Race Relations (the Institute) in a submission made to the DTI last week.

Under the Licensing of Businesses Bill of 2013 (the Bill), gazetted in March 2013 for public comment, hawkers will in future have to obtain licences to ply their trade. Those that breach this obligation will be liable to (unspecified) fines and/or imprisonment for up to ten years.

These are extraordinary penalties even to consider laying down for people whose sole offence might be to sell a few home-grown vegetables by the side of the road.

The Bill also seeks to repeal an apartheid-era law (the Business Act of 1991) that removed earlier restrictions on black business and expressly provided that hawkers need not obtain permits save in limited circumstances.

The Bill reverses this by reintroducing a blanket system of licensing for hawkers. Says Lawrence Mavundla, outgoing president of the National African Federated Congress of Commerce & Industry (Nafcoc): 'The return of licensing will be apartheid in another name.'

The DTI counters that hawkers might be able to take advantage of exemptions for authorised zones where hawking will be allowed without individual permits. "However, there is no guarantee that such exemptions will be issued, or that they will cover all the people who might need them. In addition, hawkers will not want to be restricted to such zones," notes the Institute's Head of Special Research, Dr Anthea Jeffery.

The bigger question is why the Bill is needed at all. The DTI claims it will 'promote the right to freedom of trade', but this is merely Orwellian doublespeak. It also says it will help stop the selling of counterfeit goods and illegal imports. However, such conduct is already prohibited under legislation that needs to be better enforced.

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As for enforcement under the Bill, this job is to be given not only to policemen, traffic officers, and health inspectors but also to ordinary citizens so mandated by the DTI. Such 'inspectors' will have the power to demand licences, search premises, question individuals, confiscate goods, and issue 'administrative fines'.

"The practical impact is easy to foresee,' says Dr Jeffery. 'Already informal traders complain of harassment and extortion by policemen seeking bribes. The Bill will vastly increase the impetus to extortion by giving many more people the power to engage in it and by holding over the heads of informal traders the threat of a ten-year prison term. Paying up will seem a better option than going down. How this will bring any benefit to society is difficult to see."

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