

Zambia

## Liquor Licensing Act, 1959

### Chapter 167

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## Zambia

# Liquor Licensing Act, 1959

## Chapter 167

Commenced on 16 January 1959

*[This is the version of this document at 31 December 1996.]*

*[Repealed by [Liquor Licensing Act, 2011 \(Act 20 of 2011\)](#) on 15 April 2011]*

*[1 of 1959; 19 of 1959; 35 of 1960; 45 of 1961; 26 of 1963; 57 of 1964; 69 of 1965; 17 of 1967; 6 of 1968; 53 of 1968; 25 of 1969; 47 of 1970; 62 of 1970; 40 of 1971; 20 of 1972; Government Notices 304 of 1964; 497 of 1964; 502 of 1964; Statutory Instrument 91 of 1965; Act No. 53 of 1968; 20 of 1970; 34 of 1970; 47 of 1970; 4 of 1971; 20 of 1972; 7 of 1973; 12 of 1975; 8 of 1976; 11 of 1976; 2 of 1977; 24 of 1977; 6 of 1983; 5 of 1988; 34 of 1990; 6 of 1992; 8 of 1993; 7 of 1994; 13 of 1994]*

**An Act to make provision for the regulation of the sale and supply of intoxicating liquors; and to provide for matters incidental thereto and connected therewith.**

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the Liquor Licensing Act.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

"**appropriate fee**", in relation to any matter, means the fee specified in respect of such matter in the Schedule;

"**authorised officer**" means an Administrative Officer or a police officer not below the rank of Sub Inspector;

"**bar**", in relation to any licensed premises, means any open drinking bar or any part of such premises exclusively or mainly used for the sale and consumption of intoxicating liquor;

"**Board**" means a Provincial Licensing Board established under the provisions of section eighteen;

"**denatured spirits**" means an intoxicating liquor which by the addition of some substance has been rendered unfit for use as a beverage;

"**hotel**" includes a boarding-house and any building or premises used for the accommodation of the public in which lodgings are provided and provisions are supplied by the keeper or manager thereof, but does not include any Government rest house nor any school nor any premises exempted from the provisions of the Hotels Act;

*[Cap. 153]*

"**intoxicating liquor**" includes any spirits, wine, ale, beer, porter, cider, perry, or other potable liquor containing more than three *per centum* of proof spirits, but does not include traditional beer as defined in the Traditional Beer Act;

*[Cap. 168]*

"**licence**" means a licence, other than a provisional licence, granted under the provisions of this Act;

"**licensed premises**" means any premises, including a railway restaurant car, and a passenger vessel in respect of which a licence is in force;

"**licensee**" means the holder of a licence;

"**licensing authority**" means a Board or a licensing officer;

"**licensing officer**", in relation to any District, means the senior Administrative Officer for the time being present at the administrative headquarters of such District;

"**local authority**" means—

- (a) in the area of a municipal council, township council, mine township board or rural council, such council or board;
- (b) in any other area, the District Secretary for the District in which such area is situate;

"**meal**" means substantial refreshment to which the sale of intoxicating liquor is ancillary;

"**officer in charge of police**" has the meaning assigned to it by section two of the Zambia Police Act;

*[Cap. 107]*

"**off-licence**" means a wholesale liquor licence or a retail liquor licence;

"**on-licence**" means a bar licence, an hotel liquor licence, a private hotel liquor licence, a restaurant licence, an airport licence or a theatre licence;

"**permitted hours**" means those hours of the day during which intoxicating liquor may lawfully be supplied in licensed premises;

"**prescribed**" means prescribed by regulations made under the provisions of this Act;

"**proof spirits**" means spirits which, at a temperature of fifty-one degrees Fahrenheit, weigh twelve-thirteenth parts of an equal measure of distilled water, and intoxicating liquor referred to in this Act as containing more than three *per centum* of proof spirits includes intoxicating liquor containing over 1.713 *per centum* of alcohol by volume or 1.363 *per centum* of alcohol by weight;

"**protection order**" means an authority to sell intoxicating liquor granted under the provisions of section thirty;

"**provisional licence**" means a licence of which a provisional grant has been made under the provisions of section twenty-three and of which such provisional grant has not been declared final under the said section;

"**register**" means a register of licences kept under the provisions of section thirty-two;

"**restricted licence**" means a licence which does not permit the sale of spirits;

"**sealed**", in relation to a container or vessel, means hermetically sealed or closed with a plug, stopper or cap and so secured that the container or vessel cannot be opened without the destruction of such plug, stopper or cap or of some other substance;

"**spirits**" includes distilled liquors of any description, and all mixtures, compounds and preparations made with such liquors, and any fermented liquor containing more than fifty *per centum* of proof spirits;

"**Tribunal**" means the Appeal Tribunal established under the provisions of section thirty-seven.

*[As amended by No. 45 of 1961, No. 26 of 1963, G.N. Nos. 304 and 502 of 1964, S.I. No. 91 of 1965, No. 69 of 1965, No. 25 of 1969, and No. 24 of 1977]*

### 3. Non-application

- (1) Nothing in this Act shall apply to—
  - (a) any qualified medical practitioner or registered pharmacist administering or selling for purely medical purposes any *bona fide* medicine containing intoxicating liquor;
  - (b) any person selling any spirituous or distilled perfume or perfumery, or medicated or methylated or otherwise denatured spirits or any medicated wine;
  - (c) the sale of intoxicating liquor on any aircraft in flight over the Republic in the course of a normal passenger service.
- (2) The provisions of this Act shall not apply to—
  - (a) the sale of intoxicating liquor by any person acting under the order of a court or selling any such liquor forfeited to the Government;
  - (b) the sale of intoxicating liquor by an executor or administrator or trustee in bankruptcy when such liquor forms part of the estate of a deceased or bankrupt person who was not a licensee;
  - (c) the sale by private arrangement of intoxicating liquor being the residue of a reasonable stock held for private consumption by a person about to leave the Republic;
  - (d) the sale of intoxicating liquor to members of the Defence Force by any *bona fide* organisation engaged in supplying food or drink solely to such members and approved as such by the Minister;
  - (e) the sale of intoxicating liquor, in any canteen approved for such purpose by the Minister, to members of the Zambia Police Force, Defence Force or Zambia Prison Service.

[As amended by S.I. No. 91 of 1965 and 11 of 1976]

## Part II – Types of licences

### 4. Types of licences

- (1) The following licences may be granted under the provisions of this Act:
  - (a) a wholesale liquor licence;
  - (b) a retail liquor licence;
  - (c) a bar licence;
  - (d) an hotel liquor licence;
  - (e) a private hotel liquor licence;
  - (f) a restaurant licence;
  - (g) a railway restaurant car licence;
  - (h) a passenger vessel licence;
  - (i) an airport licence;
  - (j) a theatre licence;
  - (k) a temporary licence;
  - (l) a club licence.

- (2) Subject to the provisions of this Act, a licence, other than a temporary licence, shall continue in force until the 31st December next following the date of issue thereof.

*[As amended by No. 45 of 1961 and Act No. 12 of 1975]*

## 5. Wholesale liquor licence

- (1) A wholesale liquor licence shall authorise the sale, on the licensed premises for resale or consumption off such premises, of intoxicating liquor—

- (a) in the case of whisky, brandy or gin, in any quantity of not less than two gallons;
- (b) in the case of wine, ale, beer, porter, cider or perry, in any quantity of not less than two gallons;
- (c) in the case of any other intoxicating liquor, in any quantity of not less than two gallons;

sold and delivered at any one time to any one person:

Provided that such licence shall not authorise the sale of intoxicating liquor otherwise than in casks or in sealed bottles or other sealed vessels.

- (2) Subject to the provisions of any other written law, intoxicating liquor may only be sold under a wholesale liquor licence between the hours of seven o'clock in the morning and six o'clock in the evening.

*[As amended by No. 26 of 1963]*

## 6. Retail liquor licence

- (1) A retail liquor licence shall authorise the sale, on the licensed premises for consumption off such premises, of intoxicating liquor in any quantity:

Provided that such licence shall not authorise the sale of intoxicating liquor otherwise than in casks or in sealed bottles or other sealed vessels.

- (2) Subject to the provisions of any other written law, intoxicating liquor may only be sold under a retail liquor licence between the hours of seven o'clock in the morning and six o'clock in the evening.

## 7. Bar licence

- (1) A bar licence shall authorise the sale on the licensed premises of intoxicating liquor, in any quantity, to be consumed in or upon such premises.
- (2) Intoxicating liquor may only be sold under a bar licence between the hours of ten o'clock in the morning and half-past ten o'clock in the evening.

## 8. Hotel liquor licence

- (1) An hotel liquor licence shall authorise the sale, on the premises of an hotel for consumption in or upon such premises, of intoxicating liquor in any quantity—

- (a) to persons lodging at the hotel, at any hour of the day or night;
- (b) to persons taking a meal in the hotel, at any hour of the day or night if such liquor is consumed at such meal; and
- (c) to any other person, between the hours of ten o'clock in the morning and half-past eleven o'clock in the evening.

- (2) An hotel liquor licence shall authorise the sale, on the premises of the hotel at any hour of the day or night to a person who is lodging at the hotel and who is about to make a journey of not less than thirty-two kilometres, of intoxicating liquor for consumption during such journey by such person or his family or both.

*[As amended by No. 26 of 1963]*

## 9. Private hotel liquor licence

- (1) A private hotel liquor licence shall authorise the sale, on the premises of an hotel for consumption in or upon such premises, of intoxicating liquor in any quantity—
- (a) to persons lodging at the hotel, at any hour of the day or night;
  - (b) to persons taking a meal in the hotel, at any hour of the day or night, if such liquor is consumed at such meal.
- (2) A private hotel liquor licence shall authorise the sale, on the premises of a private hotel at any hour of the day or night to a person who is lodging at the private hotel and who is about to make a journey of not less than thirty-two kilometres, of intoxicating liquor for consumption during such journey by such guest or his family or both.

*[No. 45 of 1961 as amended by No. 26 of 1963]*

## 10. Restaurant licence

A restaurant licence shall authorise the sale, on the licensed premises, of intoxicating liquor in any quantity to any person taking a meal in such premises at any hour of the day or night if such liquor is consumed at such meal.

## 11. Railway restaurant car licence

A railway restaurant car licence shall authorise the sale, on the car so licensed, of intoxicating liquor in any quantity for consumption on the train at any time in the day or night to any *bona fide* passenger on such train.

## 12. Passenger vessel licence

- (1) A passenger vessel licence shall authorise the sale, on the ship or other vessel so licensed while engaged in carrying passengers, of intoxicating liquor in any quantity, for consumption on such ship or vessel, at any hour of the day or night.
- (2) Notwithstanding any other provision of this Act, no licence shall be required for the sale on a passenger vessel of intoxicating liquor for consumption on the vessel while in the waters or ports of the Republic, if a licence for the sale of intoxicating liquor on such vessel granted under the laws of any other Government is in force.

## 13. Airport licence

An airport licence shall authorise—

- (a) the sale, on premises forming part of an airport or aerodrome for consumption on such premises, of intoxicating liquor in any quantity—
  - (i) to any person arriving at or departing from such airport or aerodrome by air or lawfully using the same for purposes connected with air travel, at any hour of the day or night; and

- (ii) to any other person, between the hours of six o'clock in the morning and half-past ten o'clock in the evening;

[Cap. 322]

- (b) the sale, at any hour of the day or night, of intoxicating liquor for consumption off the premises to any person who is a *bona fide* passenger in transit through or departing from the Republic on an international flight, if the said intoxicating liquor is sold on such part of licensed premises forming part of an international aerodrome as is designated for such purpose by the Minister responsible for finance pursuant to section one hundred and ninety of the Customs and Excise Act, and if it is sold in such quantities and under such conditions as the Minister responsible for finance, pursuant to the said section of the said Act, may have prescribed.

[No. 6 of 1968]

#### 14. Theatre licence

A theatre licence shall authorise the sale, in any cinema or in any other place or building of which a portion is used as a place of entertainment, of intoxicating liquor for consumption on the licensed premises to members of the audience, the staff and the players from one half-hour before to one half-hour after any performance.

#### 15. Temporary licence

A temporary licence shall authorise the sale, on the premises specified in the licence, of intoxicating liquor in any quantity for consumption on the premises, at any place of recreation or public amusement or other assembly for the period, not exceeding three days, during which such recreation, amusement or assembly continues or for any less period specified in the licence, subject to such restrictions and conditions as to the hours during which intoxicating liquor may be supplied or otherwise as may be inserted in the licence.

#### 15A. Club licence

- (1) A club licence shall authorise the sale on club premises of intoxicating liquor in any quantity to the members of the club or their guests for consumption on or off the club premises:

Provided that the Minister may, by statutory instrument, prescribe the hours during which intoxicating liquor may be sold on any day of the week.

[As amended by Act [No. 12 of 1975](#)]

#### 16. Restricted licences

- (1) Any person applying for a licence other than a wholesale liquor licence may, at his request and subject to the provisions of this Act, be granted a restricted licence which shall not authorise the sale of spirits but which shall otherwise have the effect of a licence of the type granted.
- (2) Notwithstanding the provisions of subsection (1), no restricted licence other than a restricted hotel liquor licence, a restricted private hotel liquor licence or a restricted passenger vessel licence shall be issued to any person who is not an employee of, or authorised by, a local authority unless the Minister has, by statutory notice, declared that the provisions of the said subsection have been applied to the area in which such premises are situate.

[As amended by No. 45 of 1961 and G.N. No. 304 of 1964]

#### 16A. Prohibition of the grant of licences

- (1) A Board shall not grant a licence where the application for the grant of the licence is in respect of premises within an area declared as a prescribed area for that type of licence.

- (2) In this section and in section eighteen "prescribed area" means any area declared by the Minister under section seventy-four to be a prescribed area for one or more types of licences mentioned in paragraphs (a) to (k), both inclusive, of subsection (1) of section four:

Provided that where the Minister has given the Board a direction in writing to consider such an application, the Board may consider the application and grant a licence.

*[As amended by Act 4 of 1971 and 20 of 1972]*

### **Part III – Establishment and powers of Licensing Boards**

#### **17. Grant and renewal of licences**

- (1) Subject to the provisions of this Act and upon payment of the appropriate fees, licences may be granted, renewed, transferred or removed—
- (a) in the case of a passenger vessel licence, by the licensing officer of the District in which any port at which the vessel concerned calls is situate;
  - (b) in the case of a temporary licence, by the licensing officer of the District in which the premises concerned are situate;
  - (c) in the case of a railway restaurant car licence, by the Board of the Central Province; and
  - (d) in any other case, by the Board of the Province in which the premises concerned are situate.
- (2) The Minister may in any case or class of case, by *Gazette* notice, remit the whole or any part of any appropriate fee due under this Act.

#### **17A. Prohibition of grant of licences**

- (1) A Board shall not grant a licence where the application for the grant of the licence is in respect of premises within an area declared as a prescribed area for that type of licence:
- Provided that where the Minister has given the Board a direction in writing to consider such an application, the Board may consider the application and grant a licence.
- (2) In this section, "prescribed area" means any area declared by the Minister under section eighty-two to be a prescribed area for one or more types of licences mentioned in paragraphs (a) to (k), both inclusive, of subsection (1) of section four.

*[No. 40 of 1971 as amended by No. 20 of 1972]*

#### **18. Establishment of Boards and procedure at meetings**

- (1) There shall be established for each Province a Provincial Licensing Board consisting of such persons, not exceeding five in number, as the Minister may from time to time, by *Gazette* notice, appoint.
- (2) The Minister may nominate one of the members of a Board to be the chairman thereof, but in the absence of such chairman from any meeting of a Board the members present at such meeting shall choose a chairman for that meeting from their number.
- (3) Three members of a Board shall form a quorum and the chairman at any meeting shall have a casting as well as a deliberative vote.
- (4) The Minister may appoint a person to be the secretary to a Board.
- (5) The chairman at any meeting of a Board is hereby empowered to administer any oath required by any of the provisions of this Act relating to the giving of evidence before such Board.

## 19. Restrictions upon grant of licences

- (1) No licence shall be granted to—
  - (a) any person who is under the age of twenty-one years; or
  - (b) a sheriff's officer or any other officer entrusted with the execution of the legal process of any court; or
  - (c) any person who has been convicted of forging a licence or of making use of a forged licence knowing it to have been forged; or
  - (d) any person who has been convicted, whether under this Act or otherwise, of permitting to be kept, or keeping, as a brothel premises for which at the time of such conviction he held a licence; or
  - (e) any person who has been disqualified by a court from holding a licence while such disqualification remains in force.
- (2) No licence shall, without the consent of the Minister, be granted or transferred to—
  - (a) any person who does not reside within the Republic; or
  - (b) any person whose licence has been forfeited until after the expiration of five years after the date of such forfeiture; or
  - (c) any person who has been convicted of an offence relating to the sale of intoxicating liquor without a licence until after the expiration of five years after the date of such conviction; or
  - (d) any person who has at any time been sentenced to imprisonment for any period exceeding six months.

- (3) No licence shall be granted or renewed to a company, society, partnership or other association of persons:

Provided that nothing in this subsection shall be deemed to prevent the grant or renewal of any licence to a person in the employ of such company, society, partnership or association, and if any such employee to whom any such licence was granted or renewed ceases to be employed in a position in which he is required to hold such licence, his employer may take such steps for the transfer of the licence to some other employee, as a licensee may take under the provisions of this Act for the transfer of his licence to some other person.

- (4) No temporary licence shall be issued in respect of the premises of a club registered under the Clubs' Registration Act except for the purposes of a function to be held in the club in aid of charity or for the furtherance of sporting or cultural activities forming part of the objects of the club:

Provided that, where the licensing authority is satisfied that there are no other suitable premises available, it may at its discretion issue a temporary licence in respect of any function to be held on the premises of such club.

*[As amended by No. 45 of 1961, No. 26 of 1963, No. 40 of 1971 and No. 20 of 1972]*

*[Cap. 162]*

## 20. Application for grant or renewal of licence

- (1) Every application for the grant of a licence shall be made in the prescribed form to the appropriate licensing authority.
- (2) Every application for the renewal of a licence shall be made—
  - (a) on or before the 30th October in each year; and

- (b) to the licensing authority which granted the original licence; and
- (c) in the form prescribed, signed by the licensee concerned:

Provided that a licensing authority may in its discretion consider an application for the renewal of a licence made after the 30th October where the licensing authority is satisfied that the delay in submitting the application was not due to the wilful or negligent default of the applicant.

- (3) Any person making or causing to be made any false statement in any application made under the provisions of this section shall be guilty of an offence and shall be liable to a fine not exceeding three thousand penalty units.
- (4) A Board shall not consider an application for the grant or renewal of a licence, other than a railway restaurant car licence, unless it is satisfied that the applicant has given at least twenty-one days' notice of his intention to make such application.
- (5) A Board shall not consider an application for the grant of an on-licence unless the applicant has, not less than fourteen days before the application is made, lodged with the secretary to the Board a plan of the premises in respect of which the application is made, together with a certificate from the local authority that the said plans have received its approval.
- (6) The notice referred to in subsection (4) shall be made in the prescribed form, shall include an address at which service of notices and other documents may be made, and shall be published in the *Gazette* and in two consecutive issues of a newspaper circulating in the area where the premises concerned are situate, and the period of twenty-one days mentioned in subsection (4) shall be calculated from the date of the last publication of such notice.
- (7) Evidence given on application for the grant of a licence shall be given on oath.

*[As amended by No. 35 of 1960 and Act No. 13 of 1994]*

## 21. Notice of intention to object

Any person who intends to oppose an application for the grant, renewal, transfer or removal of a licence shall give notice in writing of his intention to the applicant and to the licensing authority concerned, specifying in general terms the grounds of his opposition, and including an address at which service of notices and other documents may be made, not later than fourteen days after the last publication of the notice referred to in subsection (4) of section twenty, and unless such notice of intention has been so given the licensing authority shall not entertain such objection.

*[As amended by No. 35 of 1960 and No. 45 of 1961]*

## 22. Grounds for refusal of licences

- (1) Subject to the provisions of section nineteen—
  - (a) a railway restaurant car licence or a passenger vessel licence shall be granted or renewed as of right upon due application being made; and
  - (b) the grant of a temporary licence shall be in the uncontrolled discretion of the licensing officer concerned, and no appeal, whether under this Act or otherwise, shall lie from a refusal to issue such licence.
- (2) A Board may refuse to grant or renew any licence, other than a licence mentioned in subsection (1), upon any of the following grounds:
  - (a) that the premises concerned do not comply with the provisions of any law for the time being in force; or
  - (b) that the grant or renewal of the licence would conflict with any approved or proposed town plan or zoning area; or

- (c) that the grant or renewal of such licence is calculated to cause nuisance or annoyance to persons residing in the neighbourhood of the premises concerned; or
- (d) that the applicant is not a fit and proper person to hold a licence;
- (e) in the case of a bar licence—
  - (i) that, upon evidence given by the police, the Board is satisfied that the granting or renewal of such licence would be detrimental to public order; or
  - (ii) where the application is for a new licence, that the applicant has not satisfied the Board that, having regard to all the circumstances of the case including the number of existing on-licences in the area concerned, there is a public need for such licence; or
- (f) in the case of an hotel liquor licence or a private hotel liquor licence—
  - (i) that the hotel is not licensed under the provisions of the Hotels Act;
  - (ii) that the premises in respect of which the application is made do not include at least ten bedrooms for the accommodation of guests where such premises are situate within a municipality or a township, or at least five such bedrooms where such premises are situate elsewhere; or

*[Cap. 153]*

- (g) in the case of a restaurant licence—
  - (i) that, upon evidence given by the police, the Board is satisfied that the granting or renewal of such licence would be detrimental to public order; or
  - (ii) that the applicant does not keep, upon the premises in respect of which the application is made, a *bona fide* restaurant at which meals will regularly be provided for guests, and that such premises do not provide reasonable facilities for persons taking meals in such restaurant;
- (h) in the case of a retail licence—
  - (i) where the application is for a new licence, that the applicant has not satisfied the Board that, having regard to the circumstances of the case including the number of existing retail licences, there is a public need for such licence;
  - (ii) that the applicant carries on in the premises or in premises directly communicating therewith any other business for which a licence under this Act is not in force:

Provided that—

- (A) the provisions of sub-paragraph (ii) shall not apply where the only goods sold in the course of such other business are one or more of the following: tobacco, tobacco products, smokers' and cocktail requisites, mineral waters, cordials and similar non-alcoholic beverages;
  - (B) the provisions of this paragraph shall not apply where it is proved to the satisfaction of the Board that, having regard to the area in which the premises are situate and to the amount of stock carried, such other business includes in its business a substantial grocery business.
- (3) An application by a person who is not a citizen of Zambia for the grant or renewal of a bar licence or a retail licence shall be refused unless—
- (a) such application is in respect of premises within a prescribed area; or
  - (b) where such application is in respect of premises outside a prescribed area, the Minister has in writing exempted the applicant from the provisions of this subsection.

- (4) Where the renewal of an existing retail licence is refused solely on the ground set out in subparagraph (ii) of paragraph (h) of subsection (2) or where the renewal of an existing bar licence or retail licence is refused solely on the ground set out in subsection (3), the Board shall, on payment of a proportionate fee, grant a licence for such period not exceeding six months as it shall deem sufficient to enable the applicant to dispose of his stock.

- (5) In this section—

"citizen of Zambia" has the same meaning as in subsection (4) of section seventeen of the Trades Licensing Act;

"prescribed area" means any area declared by the Minister under section eighty-two to be a prescribed area.

*[As amended by No. 35 of 1960, No. 45 of 1961 and No. 53 of 1968]*

*[Cap. 393]*

## **22A. Power of President to revoke licences**

- (1) The President may at any time, by statutory instrument, revoke any licence granted under this Act and, notwithstanding anything to the contrary in this Act contained, any licence so revoked shall expire upon the commencement of such statutory instrument.
- (2) Notwithstanding anything to the contrary contained in this Act, where a licence has been revoked as aforesaid the holder shall be entitled to appoint a person of his own choice to dispose of his stock within one month after such revocation.

*[No. 62 of 1970]*

## **23. Provisional grant of licence**

- (1) Where a Board is satisfied, on application made by any person interested in any premises about to be constructed or in the course of construction for the purposes of being used as licensed premises, that such premises would, if completed in accordance with the plans deposited under this Act, be such that the Board would have granted a licence of the type required in respect of such premises, the Board may make a provisional grant of such licence for such premises.
- (2) The provisions of this section shall not apply to a railway restaurant car.
- (3) The provisional grant of a licence—
- (a) shall have effect for a period of twelve months from the date upon which such grant was made; and
- (b) shall not be valid until the Board concerned has declared it final.
- (4) A Board shall, when an application for that purpose is made to it within the period of twelve months referred to in paragraph (a) of subsection (3), declare such grant final on being satisfied—
- (a) that the premises have been completed in accordance with the plans deposited; and
- (b) that the holder of the provisional licence is not disqualified by this or any other written law from holding a licence.
- (5) No fee shall be payable upon the provisional grant of a licence but the appropriate fee for the licence shall be paid upon the declaration of such provisional grant as final.

*[As amended by No. 26 of 1963]*

#### **24. Application to lapse in certain circumstances**

Where on an application the Board has decided to grant or renew a licence and the appropriate fee for such grant or renewal has not been paid within thirty days from the date upon which the Board has notified the applicant of its decision, such application shall lapse.

*[No. 35 of 1960]*

#### **25. Renewal of licences**

- (1) For the purposes of this Act, the renewal of a licence shall mean renewal subject to the same conditions as the original licence and subject to any further conditions which may be imposed under the provisions of this Act at the time of such renewal.
- (2) On any application for the renewal of an on-licence, the Board concerned may require a plan of the premises to be deposited with the secretary to the Board together with a certificate from the local authority that the said plan has received its approval.
- (3) Evidence given on an application for the renewal of a licence shall be given on oath.

#### **26. Notification of grounds of refusal, etc.**

A licensing authority shall, at the request of an applicant other than an applicant for a temporary licence, inform such applicant of the grounds on which the grant or renewal of a licence has been refused or conditions have been imposed.

#### **27. Extension of permitted hours**

- (1) A licensing officer may, in special circumstances and upon payment of the appropriate fee, grant an extension of the hours during which intoxicating liquor may be sold on the premises of a licence holder.
- (2) No extension shall be granted under the provisions of this section in respect of more than one period of twenty-four hours at any one time.

### **Part IV – Transfer and removal of licenses**

#### **28. Transfer of licences**

- (1) For the purposes of this Act, the transfer of a licence means the substitution, upon payment of the appropriate fee, of some other person as licensee of premises in place of the person who holds or has held a licence for such premises.
- (2) A person applying for the transfer of a licence shall, not less than fourteen days before such application is made, give notice in writing of his intention to make such application to—
  - (a) the licensee where such application is not made by such licensee; and
  - (b) the officer in charge of police in the area in which the licensed premises are situate.
- (3) The transfer of a licence shall not be granted except in the following cases and to the following persons, that is to say:
  - (a) where the licensee has died, to his representative or the new tenant or occupier of the premises;
  - (b) where the licensee is incapable, through illness or other infirmity, of carrying on business under the licence, to his assigns or the new tenant or occupier of the premises;

- (c) where the licensee is adjudged bankrupt, or a trustee is appointed in pursuance of a composition scheme to administer the property or manage the business of the licensee, or a trustee is appointed under a deed of arrangement for the benefit of the creditors of the licensee, to his trustee or the new tenant or occupier of the premises;
  - (d) where the licensee has, or his representatives have, given up occupation of the licensed premises, to the new tenant or occupier of such premises or to the person to whom the representatives or assigns have, for sale or otherwise, *bona fide*, conveyed or made over the interest in the premises;
  - (e) where the occupier of the licensed premises, being about to quit them, has wilfully omitted or neglected to apply for a renewal of the licence, to the new tenant or occupier of such premises;
  - (f) where the owner of such licensed premises or some person on his behalf has been granted a protection order under the provisions of section thirty, to the owner or person applying on his behalf;
  - (g) where an employer wishes a licence to be transferred from one employee to another in accordance with the proviso to subsection (3) of section nineteen.
- (4) In a case arising under paragraph (f) of subsection (3), the licence may be transferred, notwithstanding that it has been forfeited, as if it were still valid.
- (5) A licensing authority shall not grant a transfer of a licence unless such authority is reasonably satisfied that the transfer is to a fit and proper person.

### 29. Power to carry on business after death, etc., of licensee

- (1) Where a licensee dies, or is adjudged bankrupt, or a trustee is appointed in pursuance of a composition or scheme to administer the property or manage the business of a licensee, or a trustee is appointed under a deed of arrangement for the benefit of the creditors of a licensee, section forty shall not prohibit the sale of intoxicating liquor by the personal representatives or the trustee, as the case may be, during a period of three months after such death, adjudication or appointment:
- Provided that this section shall not exempt from the prohibition imposed by the said section a sale that would not have been authorised if the licence had been transferred to the representatives or the trustee.
- (2) Where an application is made for a transfer of a licence affected by the provisions of subsection (1) within the period of three months mentioned in subsection (1) and the licensing authority adjourns consideration of the application, the said period of three months shall, if necessary, be extended to the date of the hearing of the application.

### 30. Protection order

- (1) Where a person proposes to apply for the transfer of a licence to him, the licensing officer of the District in which the licensed premises are situate may, upon the application of such person and if such officer is satisfied that the applicant is a person to whom the transfer of the licence could be granted under the provisions of this Act, grant him authority (hereinafter referred to as a protection order) to sell intoxicating liquor as if he were the holder of the licence concerned.
- (2) Where—
- (a) a licence is forfeited under any of the provisions of this Act; or

- (b) a licence holder becomes disqualified under the provisions of section nineteen for holding a licence;

a licensing officer may grant a protection order to any owner of the licensed premises or to any other person authorised by such owner, notwithstanding the forfeiture or the previous licence holder's disqualification:

Provided that a protection order shall not be granted to the person whose licence has been forfeited or who has become disqualified.

- (3) The provisions of this Act relating to the regulation, government or control of licensees shall, while a protection order is in force, apply to the person to whom the order has been granted as they apply to a licensee.
- (4) A protection order shall remain in force for a period of three months:
- Provided that, where application is made for the transfer of the licence affected within the said period of three months and the licensing authority adjourns consideration of such application, the said period shall, if necessary, be extended to the date of the hearing of such application.
- (5) A licensing officer to whom application is made for a protection order may examine on oath the applicant or any person giving evidence before him.
- (6) A protection order shall not be granted unless the applicant has, not less than forty-eight hours before the application, given notice in writing to the officer in charge of police in the area in which the licensed premises are situate, signed by the applicant or his authorised agent, and stating his name and address and his trade or calling during the six months preceding the giving of the notice.
- (7) The licensing officer by whom a protection order is granted shall endorse a memorandum of such order on the licence.
- (8) There shall be payable, upon the grant of a protection order, the appropriate fee.

*[As amended by No. 17 of 1967]*

### **31. Removal of licence**

- (1) For the purposes of this Act, the removal of a licence means taking the licence from the premises for which it is in force and endorsing it for other premises within the same Province.
- (2) An application for the removal of a licence shall be made in the prescribed form by the person wishing to hold the licence after removal, and the provisions of section nineteen, subsections (3) to (6), inclusive, of section twenty, and section twenty-two shall apply to any such application as they apply to an application for the grant or renewal of a licence.
- (3) Without prejudice to any other power of a Board to refuse to grant the removal of a licence, a Board shall not grant any such removal unless it is satisfied that no objection is made thereto by the person or persons owning and having control of the business carried on in the licensed premises from which it is sought to remove such licence or by the licensee.
- (4) There shall be payable, upon the grant of a removal of a licence, the appropriate fee.
- (5) A Board may make a provisional grant of removal of a licence to premises about to be constructed or in the course of construction, and the provisions of section twenty-three shall apply to such a provisional grant as they apply to the provisional grant of a licence.
- (6) The provisions of this section shall not apply to a railway restaurant car licence, a passenger vessel licence or to a temporary licence.

## Part V – Licence registers

### 32. Register of licences

- (1) A licensing authority shall cause to be kept a register of licences, in the prescribed form, containing particulars of all licences granted by the authority, the premises for which they were granted, the names of the owners of those premises and the names of the licensees.
- (2) A licensing authority shall cause to be entered in the register of licences notice of any conviction of any licensee entered in such register of an offence committed by him as such, including any offence against the provisions of any written law relating to the adulteration of drink, and the clerk of the court by which any such licensee is so convicted shall forthwith send notice of such conviction to the licensing authority concerned.

### 33. Registration of owner

- (1) Every person applying for the grant, renewal or removal of a licence shall state the name of the person for the time being entitled to receive, either on his own account or as mortgagee or other encumbrancer in possession, the rack-rent of the premises in respect of which the application is made, and the licensing authority shall cause such name to be entered in the register as the name of the owner of such premises and such name shall be endorsed on the licence.
- (2) A licensing authority shall also, on the application of any person whose name is not entered under subsection (1) in the register, and who has an estate or interest in the premises concerned, whether as owner, lessee or mortgagee, prior or paramount to that of the occupier, enter such person's name in the register as an owner of the premises:

Provided that, where any such estate or interest is vested in two or more persons jointly, one only of such persons shall be registered as representing that estate or interest.

- (3) Any reference in this Act to the registered owner of the premises shall be construed as a reference to any person whose name is for the time being entered in the register under the provisions of this section.

### 34. Register to be evidence

- (1) Any register shall be received in evidence of the matters required by this or any other written law to be entered therein.
- (2) Any document purporting to be certified by a licensing officer or by the secretary to a Board to be a true copy of an entry in a register shall be received as evidence of the matters contained in such entry.

### 35. Regard to be had to register

On any application for the grant, renewal, transfer or removal of a licence, the licensing authority concerned shall have regard to any entries in the register relating to the person by whom or the premises for which the licence is to be held.

### 36. Inspection of register

Any register shall be open to inspection by members of the public at all reasonable times upon payment of the appropriate fee:

Provided that no public officer shall be required to pay any fee for inspection of a register.

## Part VI – Appeals

### 37. Establishment of Tribunal

- (1) The Minister shall appoint an Appeal Tribunal consisting of a chairman and two other members for the purpose of hearing appeals under the provisions of this Act.
- (2) The Minister may appoint a person to be secretary of the Tribunal.
- (3) The chairman of the Tribunal is hereby empowered to administer any oath required by any of the provisions of this Act relating to the giving of evidence before the Tribunal.

*[As amended by S.I. No. 91 of 1965]*

### 38. Appeal to Tribunal

- (1) Any person who, being an applicant for—
  - (a) the grant of a licence, other than a temporary licence; or
  - (b) the provisional grant of a licence; or
  - (c) the renewal, transfer or removal of a licence;is aggrieved by the decision of a licensing authority thereon, by any condition attached to the grant, renewal, transfer or removal of a licence, or by any order made under the provisions of section seventy-two, may appeal to the Tribunal.
- (2) Notice of any appeal under the provisions of this section shall be given to the Tribunal within thirty days of the decision appealed against:

Provided that the chairman of the Tribunal may in his discretion extend the time for giving notice of appeal.
- (3) Upon the entry of any appeal under the provisions of this section, the appellant shall pay the appropriate fee and a notice of appeal shall not be deemed to have been given to the Tribunal until such fee has been received by the secretary to the Tribunal.
- (4) In any appeal under the provisions of this section, the parties thereto shall be the appellant, any person who has validly taken objection to the original application and who wishes to appear on such appeal, and the licensing authority concerned, and no other person shall be entitled to be heard on such appeal.
- (5) An appellant in any appeal under the provisions of this section shall serve on all persons who, by virtue of subsection (4), may be respondents to such appeal copies of his notice and grounds of appeal.
- (6) Any party to an appeal before the Tribunal may appear in person or by counsel, and a Board may appear by counsel or by a member of the Board nominated for such purpose by the chairman of the Board.
- (7) Where a licensing authority is a party to an appeal before the Tribunal, such authority may, in lieu of appearing before the Tribunal, send to the secretary thereof and to the appellant a statement of the reasons why such authority considers that the appeal should not be allowed, and such statement, if it purports to be signed by the chairman or secretary of a Board or by a licensing officer, shall be received in evidence by the Tribunal.
- (8) Pending the determination of an appeal against refusal to renew a licence, such licence shall be deemed to remain in force until such determination.

- (9) The Tribunal—
- (a) may, by notice in writing, require any person, subject to the payment or tender of the reasonable expenses of his attendance, to attend as a witness and give evidence or to produce any documents in his possession or power which relate to any matter in question on an appeal under the provisions of this section, and if any person, without reasonable excuse, fails to comply with any of the requirements of such a notice, he shall be guilty of an offence and shall be liable to a fine not exceeding three thousand penalty units:
- Provided that no person shall be required to produce any book or account, voucher or receipt which directly refers to his business or trading;
- (b) shall have the power to take evidence on oath and to make such other investigations as it may deem fit in assisting it to come to a decision regarding any matter before it;
- (c) may award to any party to an appeal such costs as the Tribunal considers reasonable, and direct by what parties such costs are to be paid, and any person failing to comply with the provisions of any order made under this paragraph shall be guilty of an offence and shall be liable to a fine not exceeding three thousand penalty units, and the costs awarded may be recovered, from the party ordered to pay such costs by the party to whom they were awarded, by civil action:
- Provided that where a licensing authority submits a statement under the provisions of subsection (7) and does not appear before the Tribunal, no costs shall be awarded against such authority.
- (10) The Tribunal shall hear and determine the matter of any appeal brought before it and may make such order therein in addition to or in substitution for the matter appealed against as it thinks fit, or may refer the matter back to the licensing authority concerned with the directions of the Tribunal which shall be binding on such authority.

*[As amended by Act [No. 13 of 1994](#)]*

### **39. Appeal to High Court**

- (1) Any party to an appeal who is dissatisfied with the decision of the Tribunal may appeal to the High Court on a question of law but not on a question of fact, and notice of any such appeal shall be given to the High Court within thirty days of the decision of the Tribunal.
- (2) On the hearing of any appeal under the provisions of this section, the High Court may allow the appeal and direct the licensing authority concerned accordingly, or may dismiss the appeal, or may refer the matter back to the Tribunal or the licensing authority for rehearing in accordance with the directions of the High Court.

## **Part VII – General provisions regulating sale of intoxicating liquor**

### **40. Selling liquor without licence**

- (1) Subject to the provisions of this Act, if any person—
- (a) sells any intoxicating liquor without holding a licence authorising him to sell such liquor; or
- (b) being a licensee, sells any intoxicating liquor except in the licensed premises concerned;
- he shall be guilty of an offence.
- (2) A person convicted of an offence under the provisions of subsection (1) shall be liable—
- (a) on a first conviction, to a fine not exceeding three thousand penalty units or to imprisonment for a period not exceeding three months, or to both.

- (b) on a second conviction, to a fine not exceeding six thousand penalty units or to imprisonment for a period not exceeding six months, or to both;
  - (c) on a third or subsequent conviction, to a fine not exceeding six thousand penalty units or to imprisonment for a period not exceeding twelve months, or to both.
- (3) A licensee shall, on his second or subsequent conviction under the provisions of this section, forfeit his licence.
- (4) The court by which a person is convicted of an offence under the provisions of this section committed after a previous conviction of such an offence may order him to be disqualified for holding a licence—
- (a) on a second conviction, for a period not exceeding five years;
  - (b) on a third or subsequent conviction, for any term of years or for life.
- (5) The court by which a licensee is convicted of an offence under the provisions of this section may declare all intoxicating liquor found in his possession, and the vessels containing it, to be forfeited.

*[As amended by Act [No. 13 of 1994](#)]*

#### **41. Prohibition of sale, etc., of liquor except during permitted hours**

- (1) Subject to the provisions of this Act, no person shall—
- (a) except during the permitted hours, himself, or by his servant or agent, sell or supply to any person in any licensed premises any intoxicating liquor to be consumed either on or off the licensed premises; or
  - (b) except during the permitted hours, consume in, or take from, or permit any person to consume in or take from, any such premises any intoxicating liquor:
- Provided that intoxicating liquor sold during the per-mitted hours may be consumed on the licensed premises up to—
- (i) fifteen minutes after the conclusion of the permitted hours in the case of intoxicating liquor sold under a bar licence; and
  - (ii) half an hour after the conclusion of the permitted hours in the case of intoxicating liquor sold under an hotel liquor licence.
- (2) Nothing in subsection (1) shall prohibit or restrict—
- (a) the sale or supply to, or consumption by, any person of intoxicating liquor in any premises where he is residing, or the supply of intoxicating liquor for consumption on the premises of a licensed hotel or a licensed private hotel to any private friends of any person lodging therein and *bona fide* entertained by him at his own expense, or the consumption of intoxicating liquor by persons so supplied;
  - (b) the supply of intoxicating liquor for consumption on licensed premises to any private friends of the licensee *bona fide* entertained by him at his own expense, or the consumption of intoxicating liquor by persons so supplied.
- (3) If any person contravenes the provisions of this section, he shall be guilty of an offence and shall be liable to a fine not exceeding one thousand five hundred penalty units.

*[As amended by No. 45 of 1961 and Act [No. 13 of 1994](#)]*

#### **42. Liquor of kind not authorised by licence not to be kept on premises**

If the holder of a restricted licence has in his possession on the licensed premises any spirits without reasonable excuse, he shall be guilty of an offence and shall be liable, on a first conviction, to a fine

not exceeding three hundred penalty units and, on a subsequent conviction, to a fine not exceeding six hundred penalty units, and in either case shall forfeit such spirits and the vessels containing it.

#### 43. Delivery of liquor

- (1) A person shall not, in pursuance of a sale by him of intoxicating liquor, deliver that liquor, either himself or by his servant or agent, from any van, barrow, basket or other vehicle or receptacle unless the person delivering the liquor carries a delivery book or invoice in which there has been entered, before the liquor was despatched, the quantity, description and price of the liquor and the name and address of the person to whom it was to be supplied.
- (2) A person shall not, himself or by his servant or agent—
  - (a) carry in any van, barrow, basket or other vehicle or receptacle while in use for the delivery of intoxicating liquor in pursuance of a sale by that person any intoxicating liquor that is not entered in a delivery book or invoice under the provisions of subsection (1);
  - (b) deliver in pursuance of a sale by him any intoxicating liquor at any address not entered as aforesaid.
- (3) A person shall not, by himself or by his servant or agent, refuse to allow a police officer to examine any van, barrow, basket or other vehicle or receptacle while in use for the distribution or delivery of any intoxicating liquor or to examine any delivery book or invoice carried under the provisions of subsection (1).
- (4) A licensee shall not be guilty of an offence under this section committed by his servant or agent if he proves that such offence was committed without his knowledge or consent.
- (5) Nothing in this section shall prohibit or restrict the delivery of intoxicating liquor to a trader for the purposes of his trade.
- (6) Any person guilty of an offence under the provisions of this section shall be liable to a fine not exceeding nine hundred penalty units.

*[As amended by Act [No. 13 of 1994](#)]*

#### 44. Breach of terms of off-licence

- (1) Where a person, having purchased intoxicating liquor from premises licensed under an off-licence, drinks such liquor—
  - (a) in the licensed premises; or
  - (b) in premises adjoining or near the licensed premises that belong to the licence holder or are under his control or used by his permission; or
  - (c) on a highway adjoining such premises;then, if the drinking is with the privity of the licensee, such licensee shall be guilty of an offence.
- (2) If the holder of an off-licence with intent to evade the terms and conditions of or attaching to such licence, takes, or suffers any person to take, any intoxicating liquor from the licensed premises for the purpose of its being sold on his account or for his benefit or profit, he shall be guilty of an offence.
- (3) For the purposes of subsection (2), if liquor is taken for the purpose of its being drunk in any house, tent, shed or other building belonging to the licensee, or hired, used or occupied by him, the burden of proving that he did not intend to evade the terms and conditions of or attaching to his licence shall lie upon him.

- (4) Any person guilty of an offence under the provisions of this section shall be liable, on a first conviction, to a fine not exceeding three hundred penalty units and, upon a subsequent conviction, to a fine not exceeding six hundred penalty units.

*[As amended by Act [No. 13 of 1994](#)]*

#### **45. Persons under eighteen years not to be employed in bars**

- (1) If any person who is under the age of eighteen years or whose licence has been forfeited under section seventy is employed in any bar of licensed premises at a time when the bar is open for the sale or consumption of intoxicating liquor, the licensee shall be guilty of an offence and shall be liable, on a first conviction, to a fine not exceeding one hundred and fifty penalty units and, on a subsequent conviction, to a fine not exceeding six hundred penalty units.
- (2) For the purposes of this section, a person shall not be deemed to be employed in a bar by reason only that in the course of his employment in some other part of the premises he enters the bar for the purpose of giving or receiving any message or of passing to or from some other part of the premises, not being a bar, being a part to or from which there is no other convenient means of access or egress.
- (3) For the purposes of this section, a person shall be deemed to be employed by the person for whom he works notwithstanding that he receives no wages for his work.
- (4) Where in any proceedings under the provisions of this section it is alleged that a person was at any time under the age of eighteen years, and he appears to the court then to have been under such age, for the purposes of such proceedings he shall be deemed to have been then under that age unless the contrary be shown.

*[As amended by No. 17 of 1967 and Act [No. 13 of 1994](#)]*

#### **46. Restriction on sale, etc., of liquor to children**

- (1) A licensee shall not knowingly sell or deliver, or allow any other person to sell or deliver, intoxicating liquor to a person under the age of fourteen years:  
  
Provided that this subsection shall not prohibit the sale or delivery of intoxicating liquor to any such person—
  - (a) at the residence or working place of the purchaser; or
  - (b) in sealed vessels in quantities not less than 1.75 reputed litres for consumption off the premises only.
- (2) A person shall not knowingly send any person under the age of fourteen years to any place where intoxicating liquor is sold or delivered in pursuance of a sale for the purpose of obtaining intoxicating liquor except for the purpose of obtaining it in sealed vessels in quantities not less than one reputed pint for consumption off the premises only.
- (3) This section shall not prohibit a licensee from delivering intoxicating liquor to a person under the age of fourteen years who is a member of his family or his servant or apprentice and is employed as a messenger to deliver intoxicating liquor, or the sending of such a person to the licensed premises to obtain intoxicating liquor.
- (4) If any person contravenes any of the provisions of this section, he shall be guilty of an offence and shall be liable, on a first conviction, to a fine not exceeding sixty penalty units and on a subsequent conviction, to a fine not exceeding one hundred and fifty penalty units.

*[As amended by Act [No. 13 of 1994](#)]*

**47. Restriction on sale of liquor to young persons for consumption on premises**

- (1) A licensee shall not knowingly sell, or allow any other person to sell, and a servant of a licensee shall not knowingly sell, intoxicating liquor to be consumed on the premises to a person under the age of eighteen years.
- (2) A person under the age of eighteen years shall not buy or attempt to buy in licensed premises intoxicating liquor to be consumed by him on the premises.
- (3) Nothing in subsections (1) and (2) shall prohibit the sale to or purchase by a person who has attained the age of sixteen years of intoxicating liquor, other than spirits, for consumption at a meal in a part of the premises usually set apart for the service of meals that is not a bar.
- (4) A licensee, or any servant of a licensee, shall not knowingly-
  - (a) allow any person under the age of eighteen years to consume intoxicating liquor in any bar in the premises;
  - (b) allow any person under the age of sixteen years to enter or remain in any such bar:

Provided that this paragraph shall not apply to any child under the apparent age of three years, and actually carried by some other person, who is in any place where traditional beer, as defined in the Traditional Beer Act, is sold.
- (5) No person shall buy or attempt to buy intoxicating liquor for consumption in a bar in any licensed premises by a person under the age of eighteen years.
- (6) If any person contravenes the provisions of this section, he shall be guilty of an offence and shall be liable, on a first conviction, to a fine not exceeding thirty penalty units and, on a subsequent conviction, to a fine not exceeding sixty penalty units.

*[Cap. 168]*

*[As amended by No. 45 of 1961 and Act No. 13 of 1994]*

**48. Restriction on credit sales**

- (1) No person shall—
  - (a) himself or by his servant or agent, sell in any licensed premises intoxicating liquor to be consumed on the premises; or
  - (b) consume intoxicating liquor on any such premises;unless it is paid for before or at the time when it is sold:

Provided that—

  - (i) if the liquor is sold or consumed at a meal supplied at the same time and is consumed with the meal, and the liquor is paid for together with the meal; or
  - (ii) if the liquor is supplied to the order of any person actually boarding or residing in the premises;no offence shall be committed under this subsection.
- (2) If any person contravenes the provisions of this section, he shall be guilty of an offence and shall be liable to a fine not exceeding nine hundred penalty units.

*[As amended by Act No. 13 of 1994]*

#### 49. Communication between licensed premises and places of public resort

- (1) If any person makes or uses, or allows to be made or used, any internal communication between licensed premises and any premises, other than licensed premises, used as a place of public resort or as a refreshment house, he shall be guilty of an offence, and shall be guilty of a further offence for every day on which the communication remains open.
- (2) A person guilty of an offence under the provisions of this section shall be liable to a fine not exceeding three hundred penalty units and, if he is a licensee, he shall on conviction forfeit his licence.

*[As amended by Act [No. 13 of 1994](#)]*

#### 50. Consent of Board for certain alterations

- (1) No alteration shall be made to premises for which an on-licence is in force if the alteration—
  - (a) gives increased facilities for drinking; or
  - (b) conceals from observation any part of the premises used for drinking; or
  - (c) affects the communication between the part of the premises where intoxicating liquor is sold and any other part of the premises or any street or other public way;unless the Board of the Province in which such premises are situate has consented in writing to such alteration and the appropriate fee has been paid by the licensee or such alteration is required by order of some lawful authority.
- (2) Before considering an application for consent under the provisions of this section, a Board may require plans of the proposed alteration to be deposited with the secretary to the Board at such time as it may determine, together with a certificate from the local authority that the said plans have received its approval.
- (3) Where any alteration is made to licensed premises in contravention of the provisions of subsection (1), the licensee shall be guilty of an offence and shall be liable to a fine not exceeding three hundred penalty units, and the court by whom such licensee is convicted may declare the licence to be forfeited or direct that within a time fixed by the order the premises shall be restored to its original condition, and any person who fails to comply with any such order shall be guilty of an offence under this section.

*[As amended by Act [No. 13 of 1994](#)]*

#### 51. Particulars to be affixed to premises, etc.

- (1) Every licensee, other than the holder of a temporary licence, shall—
  - (a) keep painted on or affixed to the licensed premises in a conspicuous place his name and after the name the word "licensed" followed by words sufficient to express the business for which the licence is granted; and
  - (b) display, or cause to be displayed, his licence in a prominent position in the licensed premises.
- (2) A person shall not have on his premises words or letters importing that he is authorised, as licensee, to sell any intoxicating liquor that he is not authorised to sell.
- (3) If any person contravenes the provisions of this section, he shall be liable, on a first conviction, to a fine not exceeding three hundred penalty units and, on a subsequent conviction to a fine not exceeding one hundred and sixty penalty units.

*[As amended by Act [No. 13 of 1994](#)]*

**52. Licensee not to permit drunkenness, etc.**

- (1) Any licensee who permits drunkenness or any violent, quarrelsome or riotous conduct to take place on the licensed premises shall be guilty of an offence.
- (2) If a licensee is charged under subsection (1) with permitting drunkenness, and it is proved that any person was drunk in the licensed premises, the burden of proving that the licensee and the persons employed by him took all reasonable steps for preventing drunkenness in the premises shall lie upon him.
- (3) Any licensee who sells intoxicating liquor to a drunken person shall be guilty of an offence.
- (4) Any person guilty of an offence under the provisions of this section shall be liable, on a first conviction, to a fine not exceeding six hundred penalty units and, on a subsequent conviction, to a fine not exceeding one thousand five hundred penalty units and to forfeiture of his licence.

*[As amended by Act [No. 13 of 1994](#)]*

**53. Procuring drink for drunken persons**

- (1) Any person who, in licensed premises, procures or attempts to procure any intoxicating liquor for consumption by a drunken person shall be guilty of an offence.
- (2) Any person who aids a drunken person in obtaining or consuming intoxicating liquor in licensed premises shall be guilty of an offence.
- (3) Any person guilty of an offence under the provisions of this section shall be liable to a fine not exceeding one thousand and five hundred penalty units or to imprisonment for a period not exceeding one month, or to both.

**54. Power to exclude drunkards, etc., from licensed premises**

- (1) Without prejudice to any other right to refuse a person admission to premises or to expel a person from premises, a licensee or his servant or agent may refuse to admit to, or may expel from, the licensed premises any person who is drunken, violent, quarrelsome or disorderly, or whose presence in his premises would subject the licensee to a penalty under this Act or any other written law.
- (2) If any person liable to be expelled from licensed premises under the provisions of this section, when requested by the licensee or his servant or agent or any police officer to leave the premises, fails to do so, he shall be guilty of an offence and liable to a fine not exceeding one hundred and fifty penalty units.
- (3) Any police officer shall, on the demand of a licence holder or his servant or agent, help to expel from the licensed premises any person liable to be expelled therefrom under the provisions of this section, and may use such force as may be required for such purpose.

**55. Permitting licensed premises to be a brothel**

- (1) If a licensee permits the licensed premises to be a brothel, he shall be guilty of an offence and shall be liable to a fine not exceeding six hundred penalty units.
- (2) If a licensee is convicted, whether under this section or under any other enactment, of permitting his premises to be a brothel, he shall forfeit his licence.

*[As amended by Act [No. 13 of 1994](#)]*

## 56. Permitting licensed premises to be resort of prostitutes

- (1) A licensee shall not knowingly allow the licensed premises to be the habitual resort or place of meeting of reputed prostitutes, whether the object of their so resorting or meeting is or is not prostitution:

Provided that this section shall not prohibit his allowing any such persons to remain in the premises for the purpose of obtaining reasonable refreshment for such time as is necessary for that purpose.

- (2) If a licensee contravenes the provisions of this section, he shall be guilty of an offence and shall be liable, on a first conviction, to a fine not exceeding three hundred penalty units and, on a subsequent conviction, to a fine not exceeding six hundred penalty units.

*[As amended by Act [No. 13 of 1994](#)]*

## 57. Gaming on licensed premises

- (1) If a licensee suffers any unlawful game to be carried on in his premises, he shall be guilty of an offence and shall be liable, on a first conviction, to a fine not exceeding three hundred penalty units and, on a subsequent conviction, to a fine not exceeding six hundred penalty units.
- (2) The conviction of a licensee of opening, keeping or using his premises, or of suffering his premises to be opened, kept or used as a gaming house under any other enactment shall be deemed to be a conviction under this section.

*[As amended by Act [No. 13 of 1994](#)]*

## 58. Offences in relation to police officers

If a licensee—

- (a) knowingly suffers to remain on his premises any police officer during any part of the time appointed for such police officer's being on duty, except for the execution of such duty; or
- (b) knowingly supplies any liquor or refreshment, whether by way of gift or sale, to any police officer on duty except by authority of a superior officer of such police officer; or
- (c) bribes or attempts to bribe any police officer;

he shall be guilty of an offence and shall be liable, on a first conviction, to a fine not exceeding three hundred penalty units and, on a subsequent conviction, to a fine not exceeding six hundred penalty units.

*[As amended by Act [No. 13 of 1994](#)]*

## Part VIII – Special provisions regarding passenger vessel licences on Lake Kariba

### 59. Interpretation for purposes of Part VIII

For the purposes of this Part, unless the context otherwise requires—

*[No. 45 of 1961]*

"**crew**" includes any person employed in a passenger vessel;

"**Lake Kariba**" means the area of water formed by the construction of the dam at Kariba Gorge;

"**licensed passenger vessel**" means a passenger vessel in respect of which there is in force a licence granted under the provisions of this Act or a currently valid licence for the sale of intoxicating liquor on a passenger vessel granted under the laws of Southern Rhodesia;

"**master**" means any person having for the time being command or charge of a passenger vessel;

"**open water**" means that area of Lake Kariba which is not within one hundred yards of the shore of Lake Kariba.

#### **60. Application of Part VIII**

- (1) This Part shall apply only to vessels while on Lake Kariba.
- (2) The provisions of this Part shall be in addition to and not in derogation of any provisions of any other Part of this Act except so far as those provisions are inconsistent with the provisions of this Part, and if any provision of any other Part is inconsistent with any provision of this Part, then the provision of this Part shall prevail and the provision of that other Part shall to the extent of the inconsistency be of no effect.

#### **61. Licensing authority for Lake Kariba**

- (1) Licenses for passenger vessels on Lake Kariba may be granted, renewed, or transferred by the Board for the Southern Province.
- (2) A temporary licence in respect of a passenger vessel on Lake Kariba may be granted by the licensing officer of the Gwembe District.

#### **62. Restrictions upon the grant, renewal or transfer of passenger vessel licenses**

- (1) No passenger vessel licence shall be granted or transferred to any person other than the master of a passenger vessel.
- (2) No passenger vessel licence shall be granted or renewed in respect of any passenger vessel unless it complies with the provisions of any law for the time being in force relating to the registration of vessels or the licensing of vessels to carry passengers.
- (3) No passenger vessel licence or restricted passenger vessel licence shall be granted if an application for a similar licence by the applicant or in respect of the same vessel has been refused by the appropriate licensing authority under the Liquor Act, 1953, of Southern Rhodesia, as amended from time to time by subsequent Acts, within a period of twelve months before the date on which application is made for such first mentioned licence.

#### **63. Grounds for refusal of licences**

The Board for the Southern Province may refuse to grant or renew any passenger vessel licence upon any of the following grounds:

- (a) that the applicant is not a fit and proper person to hold a licence; or
- (b) that, upon evidence given by the police, the Board for the Southern Province is satisfied that the granting or renewal of such licence would be detrimental to public order; or
- (c) where the application is for a new licence, that the applicant has not satisfied the Board for the Southern Province that, having regard to all the circumstances of the case including the number of existing licensed passenger vessels on Lake Kariba, there is a public need for such licence.

#### **64. Conditions**

A passenger vessel licence shall be subject to such conditions as to the standards in the quality of the services to be provided in the passenger vessel as the Board for the Southern Province may think fit to insert in the licence.

## 65. Permitted hours and places under a passenger vessel licence

A passenger vessel licence issued under this Part shall authorise the sale of intoxicating liquor on a licensed passenger vessel—

- (a) to any *bona fide* passenger or any member of the crew—
  - (i) at any hour of the day or night, at the discretion of the master, while such vessel is in open water at a place not within 1.6 kilometres of licensed premises other than another licensed passenger vessel or any licensed premises in respect of which an off-licence is held;
  - (ii) between the hours of ten o'clock in the morning and half-past ten o'clock in the evening while such vessel is not in open water or is at a place within 1.6 kilometres of licensed premises other than another licensed passenger vessel or any premises in respect of which an off-licence is in force;
- (b) to any other person approved by the master between the hours of ten o'clock in the morning and half-past ten o'clock in the evening while such vessel is in open water or is at a prescribed place.

## 66. Breach of conditions of passenger vessel licence

- (1) If the holder of a passenger vessel licence contravenes any condition of or attaching to that licence, he shall be guilty of an offence.
- (2) Any person guilty of an offence under the provisions of this section shall be liable, on a first conviction, to a fine not exceeding three hundred penalty units and, upon a subsequent conviction, to a fine not exceeding six hundred penalty units.

*[As amended by Act [No. 13 of 1994](#)]*

## 67. Right to go aboard and inspect vessels

- (1) For the purposes of this section—

"inspecting officer" means an Administrative Officer, a police officer of or above the rank of Sub Inspector and any person authorised to enter premises under the provisions of the Liquor Act, 1953, of Southern Rhodesia, as amended from time to time by subsequent Acts.
- (2) An inspecting officer, while any vessel is in open water, and a police officer or Administrative Officer while any vessel is not in open water, may at all reasonable times go on board and inspect that vessel for the purpose of ascertaining whether the provisions of this Act or of the Liquor Act, 1953, of Southern Rhodesia, as amended from time to time by subsequent Acts, are being or have been contravened.
- (3) If any person hinders or prevents any inspecting officer in pursuance of this section from going on board or impedes him in carrying out any inspection under this section, he shall be guilty of an offence and shall be liable, on a first conviction to a fine not exceeding seven hundred and fifty penalty units and, on a subsequent conviction, to a fine not exceeding one thousand five hundred penalty units.

*[As amended by G.N. No. 502 of 1964, No. 24 of 1977 and Act [No. 13 of 1994](#)]*

## 68. Application and modification of sections 20, 28, 30, 41, 45, 47, Part VII, sections 69, 76, 80 and 81

In the application of Lake Kariba of—

- (a) subsection (6) of section twenty, there shall for the words "circulating in the area where the premises concerned are situate" be read the words "circulating in the Southern Province";

- (b) paragraph (b) of subsection (2) of section twenty-eight, there shall for the words "in the area in which the licensed premises are situate" be read the words "in the Southern division";
- (c) subsection (1) of section thirty, there shall for the words "the licensing officer of the District in which the licensed premises are situate" be read the words "the licensing officer of the Gwembe District";
- (d) subsection (1) of section forty-one, there shall for the proviso to paragraph (b) thereof be read the following:

Provided that intoxicating liquor sold during the permitted hours may be consumed on a licensed passenger vessel up to half an hour after the conclusion of the permitted hours;
- (e) sections forty-five and forty-seven, there shall for the words "under the age of eighteen years", wherever they occur, be read the words "under the age of nineteen years";
- (f) Part VII and sections sixty-nine, seventy-six, eighty and eighty-one, "licence" shall include a currently valid licence for the sale of intoxicating liquor on a passenger vessel granted under the laws of Southern Rhodesia and "licence" and "licensed premises" shall be construed accordingly.

## Part IX – Supplemental

### 69. Closing of premises in case of riot

- (1) Where any riot or tumult occurs or is expected to occur in any place, an authorised officer may order any licensed premises in or near such place to be closed during such time as he may think fit, and any person carrying out such order may use such force as may be reasonably necessary for closing such premises.
- (2) Any person who resists or obstructs the execution of any order given under the provisions of subsection (1), and any licensee who sells intoxicating liquor in contravention of such order, shall be guilty of an offence and shall be liable to a fine not exceeding one thousand five hundred penalty units, and any such licensee so convicted shall also be liable to suffer the forfeiture of his licence.

*[As amended by Act [No. 13 of 1994](#)]*

### 70. Forfeiture of licence by the Minister

- (1) When the Minister is satisfied that a license is or has engaged in or permits any activity on the licensed premises which is detrimental to the security of the Republic or to public order he may, by order, forfeit the licence of the licensee and a copy of the order of forfeiture shall be served on the licensee.
- (2) An order of forfeiture shall take effect when the copy thereof is served on the licensee.
- (3) An order of forfeiture shall, on its production in any proceedings or application before any court or licensing authority or the Tribunal, be conclusive evidence of the fact of forfeiture.
- (4) No appeal shall lie to any court against an order of forfeiture of a licence under this section.
- (5) Neither an order of forfeiture of a licence under this section nor the grounds for such a forfeiture shall be questioned or be subject to review by any court or licensing authority or the Tribunal in any proceedings or application before it.

*[No. 17 of 1967]*

### 71. Disposal of stock in hand where a licence is forfeited

Where a licence is forfeited under any provision of this Act, the licensing officer of the District in which the licensed premises concerned are situate or, in the case of a passenger vessel licence, the licensing

officer of the District in which any port at which the vessel concerned calls is situate, shall, upon the application of the licensee whose licence is forfeited, in writing permit the licensee to dispose of his stock in hand at the date the forfeiture takes effect during the period of one month from that date, and thereupon the provisions of this Act relating to the regulation, government or control of licensees shall, during that period, apply to the person so permitted as they apply to a licensee.

*[No. 17 of 1967]*

## **72. Power to require structural alterations**

- (1) A Board, upon the grant, renewal or removal of a licence, may, subject to the prior approval of the local authority, order that, within a time fixed by the order, such structural alterations shall be made by the licensee in the public rooms of the licensed premises where intoxicating liquor is sold or consumed as the Board thinks reasonably necessary to ensure the suitability of such rooms for the sale of intoxicating liquor and for the accommodation of the public therein.
- (2) The secretary to a Board shall serve on the registered owner of the licensed premises notice of any order made under the provisions of this section.
- (3) Where any order made under the provisions of this section is complied with, the Board shall not, without the written consent of the Minister, make any other such order in respect of the same premises within five years following the date of the first-mentioned order.
- (4) If a licensee makes default in complying with the requirements of an order made under the provisions of this section, he shall be guilty of an offence and shall be liable to a fine not exceeding seven hundred and fifty penalty units and to a further fine not exceeding one hundred and fifty penalty units for every day such default continues after the expiration of the time fixed by such order.

*[As amended by Act [No. 13 of 1994](#)]*

## **73. Restrictions on carrying on other business**

The holder of an on-licence shall not, except with the written consent of the licensing authority concerned, carry on any other business on his licensed premises except that connected with the conduct of an hotel or restaurant or the sale of light refreshments or of tobacco, tobacco products, mineral waters and matches, and any licensee who carries on any business in contravention of the provisions of this section shall be guilty of an offence and shall be liable to a fine not exceeding three hundred penalty units.

*[As amended by Act [No. 13 of 1994](#)]*

## **74. Sale of tobacco, etc.**

Notwithstanding the provisions of any written law for the time being in force relating to trading licences, the holder of any licence for the sale of liquor for consumption on the premises may, on those premises and during the permitted hours, carry on the business of the sale of tobacco, tobacco products, mineral waters, chocolates, sweets and matches without a trading licence.

## **75. Proof of licences, etc.**

- (1) Any document purporting to be a licence and signed by a licensing officer or by the secretary to a Board shall be received in evidence.
- (2) Any document purporting to be a copy of a licence certified under the hand of the licensing officer, or the secretary to the Board, issuing the original licence to be a true copy shall be received in evidence on an application for the renewal, transfer or removal of the licence, or on application for a protection order, if the licensing authority to whom the application is made is satisfied by evidence that the original licence is lost or unlawfully withheld.

- (3) Any memorandum made under the provisions of sub-section (7) of section thirty shall be received in evidence.

#### **76. Evidence of sale, etc.**

- (1) Evidence that a transaction in the nature of a sale of intoxicating liquor took place shall, in any proceedings relating to an offence under the provisions of this Act, be evidence of the sale of such liquor without proof that money passed.
- (2) Evidence that consumption of intoxicating liquor was about to take place shall, in any such proceedings as aforesaid, be evidence of the consumption of intoxicating liquor without proof of actual consumption.
- (3) Evidence that any person, other than the occupier of licensed premises or a servant employed in licensed premises, consumed or intended to consume intoxicating liquor in such premises shall be evidence that the liquor was sold by or on behalf of the licensee to that person.

#### **77. Right of police officers to enter premises**

- (1) A police officer may at any time enter licensed premises for the purpose of preventing or detecting the commission of any offence against this Act.
- (2) If any person, himself or by any person in his employment or acting with his consent, obstructs or fails to admit a police officer who demands entry to premises in pursuance of this section, he shall be guilty of an offence and shall be liable, on a first conviction, to a fine not exceeding seven hundred and fifty penalty units and on a subsequent conviction, to a fine not exceeding one thousand five hundred penalty units.

*[As amended by Act [No. 13 of 1994](#)]*

#### **78. Search warrant**

- (1) If a magistrate is satisfied by information on oath that there is reasonable ground for believing that any intoxicating liquor is sold by retail at any place, being a place where that liquor may not lawfully be sold by retail, he may issue a search warrant under his hand to a police officer of or above the rank of Sub-Inspector authorising him at any time or times within one month from the date of the warrant to enter that place, which shall be named in the warrant, by force if need be, and search the place for intoxicating liquor and seize and remove any intoxicating liquor that the police officer has reasonable ground for supposing to be in the place for the purpose of unlawful sale there or elsewhere, and the vessels containing such liquor.
- (2) If the owner or occupier of the place from which any intoxicating liquor has been removed under subsection (1) is convicted of selling by retail any intoxicating liquor that he is not authorised to sell by retail, or is convicted of having in his possession intoxicating liquor that he is not authorised to sell, any intoxicating liquor so removed, and the vessels containing it, shall be forfeited.
- (3) Where a police officer seizes any intoxicating liquor in pursuance of a warrant issued under the provisions of this section, any person found in the place at which such liquor was seized shall, unless he proves that he is there for a lawful purpose, be guilty of an offence and liable to a fine not exceeding sixty penalty units.
- (4) Where a police officer seizes any liquor as aforesaid, and any person so found, on being asked by a police officer for his name and address-
  - (a) refuses to give them; or
  - (b) gives a false name or address; or

- (c) gives a name or address that the police officer has reasonable grounds for thinking to be false, and refuses to answer satisfactorily any questions put by such officer to ascertain the correctness of the name or address;

shall be guilty of an offence and liable to a fine not exceeding one hundred and fifty penalty units.

- (5) A police officer may arrest without warrant any person whom he suspects of having committed an offence under the provisions of subsection (4)

*[As amended by Act [No. 13 of 1994](#)]*

## **79. Offences and forfeitures**

- (1) For the purposes of any provisions of this Act imposing a penalty or forfeiture on a second or subsequent conviction, any conviction that took place more than five years previously shall be disregarded.
- (2) Liquor or vessels forfeited under the provisions of this Act shall be sold or otherwise disposed of as the court imposing the forfeiture may direct, and the proceeds shall be applied as if they were a fine.

## **80. Notice of conviction of licensee to be given to owner**

- (1) Where the conviction of a licensee is entered in a register under the provisions of subsection (2) of section thirty-two, the person making such entry shall serve notice of the conviction on the registered owner of the premises.
- (2) A notice served under the provisions of subsection (1) may be served by registered post and in such case shall be deemed to be properly addressed if it is addressed to any place that the owner has specified to the authority keeping such register as his address or, if the owner has not specified any such place, that the person serving the notice believes to be the owner's address.

## **81. Temporary licence pending appeal**

- (1) Where on conviction of an offence a licence is forfeited, and the person convicted appeals against such conviction, the convicting court may, in its discretion and on such conditions, if any, as it thinks just, grant a temporary licence, without payment of fee, to be in force until the appeal is determined or ceases to be prosecuted.
- (2) A temporary licence granted under the provisions of subsection (1) shall be of the same type and, in addition to any conditions imposed under subsection (1), be subject to the same conditions as the licence which is forfeited.

## **82. Powers of Minister**

The Minister may from time to time, by statutory instrument, prescribe any matter which he may deem necessary or expedient to prescribe for the purpose of giving effect to the objects of this Act, and in particular, but without derogating from the generality of the foregoing, declare any area to be a prescribed area and exempt any person or class of persons from the application of any provision of this Act or from the payment of all or any part of the appropriate fee.

*[As amended by Act [53 of 1968](#), [47 of 1970](#) and [6 of 1983](#)]*

## **Schedule (Section 2)**

### **Prescribed fees**

1. Fees for the grant or renewal of a—

	<b>Fee units</b>
Wholesale liquor licence	1,200
Retail liquor licence	800
Bar licence	800
Airport licence	600
Hotel liquor licence	1,000
Private hotel liquor licence	800
Restaurant licence	600
Railway restaurant car licence	150
Passenger vessel licence	300
Theatre licence	400
Club licence	400
Temporary licence: per twenty-four hours or part thereof	500
Restricted licence: one half of the fee prescribed above for the appropriate full licence	

Where any licence is granted on or after 1st July, one-half of the appropriate fee prescribed above shall be payable in respect of the period to the 31st December, next following.

2. For extension of the permitted hours under the provisions of section twenty-seven of the Act, there shall be paid a fee of one thousand fee units in respect of every hour or part thereof by which the permitted hours are extended.
3. Fees for—

	<b>Fee units</b>
Transfer of licence, other than a restricted passenger vessel licence, Lake Kariba and other lakes	100
Transfer of a restricted passenger vessel licence for vessels on Lake Kariba and other lakes	30
Removal licence	100
Inspection of a register	10
Consent of a Board under section fifty of the Act	20
A protection order	100

4.

The fee payable upon an appeal to the tribunal shall be	400
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*[As amended by Act Nos. 7 and 13 of 1994]*