

LIQUOR LICENSING ACT, 1970 ACT 331

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ACT 331

LIQUOR LICENSING ACT, 1970(1)

AN ACT to consolidate the law relating to liquor licensing.

Manufacture of Spirits

1. Licence to manufacture spirits

(1) A person shall not manufacture or commence to manufacture spirits except under and in accordance with a distiller's licence.

(2) The Minister responsible for Finance may, after consultation with the Minister, by executive instrument direct that a distiller or group of distillers of refined spirits specified in the instrument, be

placed under the control of the Customs and Excise (Duties and Other Taxes) Act, 1996 (Act 512).

(3) The fees per annum payable for a distiller's licence are those set out in the First Schedule.

2. Inspection of stills

(1) An inspector may enter at any time the premises in respect of which a distiller's licence is in force.

(2) A police officer in uniform may enter at any time the premises on which there are reasonable grounds to suspect that spirits have been or are being manufactured in contravention of this Act.

(3) A person empowered to enter premises under this section may

(a) inspect the premises and the still, spirits or any other article in the premises;

(b) require a person on the premises to give information in the possession of that person, regarding the activities carried on in the premises and the person by whom they are carried on;

(c) take away a sample not exceeding one-third of a pint from a container of liquid found on the premises.

3. Regulations

(1) The Minister may, by legislative instrument, make Regulations

(a) for the issue of distillers' licences by the Minister, and the conditions attached to and duration of the licences;

(b) for the method of collection of the fees payable for the licences;

(c) designating persons to act as inspectors for the purposes of section 2;

(d) amending the First Schedule;

(e) otherwise for carrying out the principles and purposes of sections 1 to 4;

(f) for materials and apparatuses for distilling akpeteshie;

(g) for the storage of akpeteshie for purposes of maturity.

(2) Regulations made under subsection (1) may authorise the inclusion in a distiller's licence of a condition requiring that spirits manufactured under the licence are offered for sale to a statutory corporation or any other person named for that purpose in the Regulations.

4. Offences

(1) A person who

(a) contravenes section 1 (1), or

(b) obstructs or fails to comply with a requirement of an inspector or a police officer in the exercise of powers under section 2, or

(c) contravenes a condition included in a distiller's licence,

commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty

penalty units or to a term of imprisonment not exceeding one year, or to both the fine and the imprisonment.

(2) The apparatus and the spirits in relation to which the offence was committed shall be forfeited and

disposed of as the Court may direct.

(3) In proceedings under subsection (1) a document purporting to state the results of an analysis carried out by direction of the Minister responsible for Health is prima facie evidence of the facts stated

in the document.

Sale of Spirits

5. Licence to sell spirits

(1) Subject to subsection (2), a person shall not sell spirits on any premises or in the open, except under and in accordance with

(a) a wholesale licence to sell spirits in quantities of not less than two gallons at a time, not to be consumed on the premises, to a person who holds a spirit licence, or

(b) a store licence to sell spirits for consumption on or off the premises, or

(c) a hotel licence to sell spirits within a hotel, or

(d) a restaurant licence to sell spirits to be consumed with a meal in a restaurant, or

(e) an occasional licence to sell spirits on a special occasion at a specified place, or

(f) a bar licence to sell spirits for consumption on the premises.

(2) Spirits manufactured by the holder of a distiller's licence may be sold by the holder

(a) wholesale, on the premises on which they were manufactured or in a store remote from those

premises, and

(b) retail, in that store, subject to the conditions that the Commissioner of the Customs, Excise and Preventive Service may impose.

(3) The fees payable for a licence under subsection (1) are those set out in the Second Schedule.

6. Akpeteshie

(1) A person shall not sell akpeteshie under a spirit licence unless the licence is expressly endorsed to

authorise the licensee to sell akpeteshie.

(2) A spirit licence may be limited to the sale of akpeteshie.

(3) A spirit licence shall not be required for the sale of akpeteshie to a statutory corporation or any other person prescribed by the Regulations.

(4) A distiller of refined spirit shall have a first option on the purchase of the products of a distiller of

akpeteshie.

(5) The rate per gallon of the duty payable on akpeteshie produced is set out in the Third Schedule.

(6) A duty is not payable on the sale by a manufacturer of akpeteshie of the products of that manufacturer to a manufacturer of refined spirit.

7. Stock book to be kept

(1) A licensee shall enter into a stock book to be kept for that purpose a true record of the spirits bought and sold by that licensee and shall within seven days after the expiration of every month render to

the police officer in charge of the district in which the licensee sells spirits, a true and accurate return in

the form prescribed by the Regulations, showing

(a) the quantity of each description of spirits on hand at the commencement of that month,

(b) the quantity of each description of spirits bought or sold by the licensee during that month

and the names of the persons from whom, the quantity was bought, and

(c) the stock of each description of spirits remaining on hand on the last day of the immediately preceding month.

(2) A licensee shall not render a return which is false or lacking in a material particular.

(3) A police officer not below the rank of inspector, and a police officer authorised in writing by a police officer not below the rank of inspector, may between the hours of 8 a.m. and 6 p.m. inspect the

stock-in-trade of a licensee and require the licensee to produce the stock book for the purpose of comparing the entries in the stock book with the stock-in-trade, and may seize the spirits found in excess

of the stock shown in the stock book.

(4) This section does not apply to locally manufactured spirits.

8. Invoices

(1) A licensee shall retain and produce on demand for inspection by a police officer not below the rank of inspector the invoices issued in respect of the purchases of spirits.

(2) A licensee who sells spirits to a purchaser in a quantity other than tots shall issue to that purchaser

an invoice bearing

(a) the name and address of that purchaser,

(b) the number of the licensee's licence, and

(c) the date of purchase.

(3) The licensee shall retain the duplicate of the invoice and shall on demand produce it to a police officer not below the rank of inspector.

(4) This section does not apply to locally manufactured spirits.

9. Storage of spirits

A licensee shall not store spirits in a place other than the place of business of the licensee.

10. Regulations

The Minister may, by legislative instrument, make Regulations

(a) prescribing the method and form of application for a licence to sell spirits and the authority to which the application is to be made;

(b) prescribing the procedure relating to the grant of a licence, including the consideration of objections to the grant, and appeals to the Minister from a grant or a refusal to grant a licence;

(c) prescribing the form and duration of the licence, the method of collection of fees payable for the licence, the conditions to be observed by a licensee and the duties of a licensee;

(d) providing for the transfer of a licence;

(e) prescribing permitted hours and providing for matters in relation to the prescribed hours;

(f) prescribing the time at or within the duty on akpeteshie produced is to be paid, the method of collection of the duty, the repayment of a duty paid in error contrary to subsection (6) of section 6;

(g) amending the Second and Third Schedules;

(h) providing for or prescribing any other matter or thing which the Minister considers expedient for giving effect to this Act.

11. Offences

(1) A person who contravenes sections 5 (1), 6 (1) or 9 or a condition included in a licence to sell

spirits commits an offence and is liable on summary conviction to a fine not exceeding fifty penalty units.

(2) A person who contravenes a provision of section 7 or 8 commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding one year, or to both the fine and the imprisonment; and the spirits seized

under section 7 in relation to which the offence was committed may be forfeited and disposed of as

directed by the Court.

(3) In the event of a second conviction of a licensed person under this section, the licence shall be suspended for a year, and in the event of a third or subsequent conviction under this section that person

shall be disqualified from holding a licence for a period, not less than five years in each case, as directed

by the Court.

(4) A conviction for an offence under this section shall be endorsed on the licence of the offender.

Sale of Wine and Beer

12. Licence to sell wine and beer

(1) A person shall not sell wine or beer on any premises or in the open, except under and in accordance with

(a) a spirit licence granted under section 5,

(b) an off-licence to sell wine and beer not to be consumed on the premises, or

(c) an on-licence to sell wine and beer which may be consumed on the premises.

(2) The fee payable for a licence to sell wine and beer for a store is set out in the Fourth Schedule.

13. Regulations

The Minister may, by legislative instrument, make Regulations

(a) prescribing or providing for, in respect of licences to sell wine and beer, the matters that are prescribed or provided for under section 10 in respect of licences to sell spirits;

(b) amending the Fourth Schedule.

14. Offences

(1) A person who contravenes section 12 (1) or a condition included in a licence to sell wine and beer

commits an offence and is liable on summary conviction to a fine not exceeding fifty penalty units.

(2) Subsections (3) and (4) of section 11 shall apply in the event of a conviction under this section as

they apply to a conviction under section 11.

Miscellaneous

15. Exclusion of young persons

(1) A holder of a licence to sell spirits, wine or beer shall not allow a person under the apparent age of

eighteen years to be in the bar of the licensed premises during permitted hours.

(2) A licensee who contravenes subsection (1), and a person who causes or procures a person under the apparent age of eighteen years to enter or to be in the bar of a licensed premises during the permitted

hours, commits an offence and is liable on conviction to a fine not exceeding twenty-five penalty units

and in default of payment to a term of imprisonment not exceeding one month.

(3) Where a person under the apparent age of eighteen years is found in the bar of a licensed premises

during permitted hours, the holder of the licence shall be deemed to have committed an offence under this

section unless the holder shows that due care to prevent that person from being admitted to the bar was

used or that the young person had attained the age of eighteen years.

(4) A licensee under this Act shall not sell spirits, wine or beer to a drunken person or permit disorderly or improper conduct on the premises or a part of the premises attached to the premises.

16. Power to demand name and address

(1) A police officer in uniform may demand the name and address of a person found after the permitted hours on any premises licensed for the sale of spirits, wine or beer, and, if the police officer has

reasonable ground to suspect that the name or address given is false, may require evidence of its correctness.

(2) A person who fails on demand to give the name and address, or satisfactory evidence of the name

and address of that person, may be arrested by the police officer without warrant and taken as soon as

practicable before a District Magistrate.

17. Police officers

A licensee under this Act shall not sell akpeteshie, spirits, beer or wine to a police officer in uniform.

18. Offences

A person who

(a) when required to give the name and address under section 16, fails to do so or gives a false name or address, or

(b) not being an inmate, servant or lodger, on premises licensed for the sale of spirits, wine or beer, or otherwise lawfully permitted to be on those premises, is found on those premises after the permitted hours without reasonable excuse, or

(c) by personally and falsely representing to be a lodger, buys or obtains, or attempts to buy or obtain, spirits, wine or beer at any premises after the permitted hours, commits an offence and is liable on conviction to a fine not exceeding fifteen penalty units.

19. Liability of employer

A master or employer is liable for an offence committed under section 4, 11, 14 or 18 by the servant or

agent of the master or employer in the course of employment.

20. Limitation of actions

A prosecution shall not be commenced under this Act after the expiration of six months from the date

of the offence.

21. Sale without licence in special cases

This Act shall not prevent

(a) the executor or administrator of a deceased licensee or the assignee or trustee of a licensee

who becomes insolvent or bankrupt before the expiration of the licence, from selling the spirits, wine or beer coming to them in that capacity in the premises specified in the licence;

or

(b) the executor or administrator of a person not licensed who dies leaving among the assets or estate of that person a private stock of spirits, wine or beer not exceeding fifty gallons from selling it; or

(c) a person from selling the private stock of spirits, wine or beer or of that person not exceeding twenty-five gallons at a sale of the effects of that person on leaving the Republic; or

(d) an officer of or a person authorised by a Court from selling the spirits, wine or beer seized or taken in execution under due process of law.

22. Interpretation

In this Act, unless the context otherwise requires,

“akpeteshie” means spirits manufactured in the Republic by the distillation of a fermented liquid

in a simple pot still;

“bar” means an open drinking bar on licensed premises or a part of the licensed premises

exclusively or mainly used for the sale and consumption of spirits, wine or beer;

“beer” includes any description of beer, and a liquor made or sold as a description of beer or as a

substitute for beer and which contains more than one percent of pure alcohol, but does not include pito

and any other similar locally brewed liquors;

“blend” means to mix the products of two or more distillers to obtain a uniform product;

“compound” means to mix an ingredient or material with spirits, but does not include methylating;

“distiller” includes a person who produces spirits by the distillation of fermented spirits or by

chemical means and a person who rectifies, compounds, blends or methylates;

“licensee” means a person holding a licence to sell spirits, wine or beer under this Act;

“methylate” means to mix non-potable methyl alcohol and other substances with spirits to render

them non-potable;

“Minister” means the Minister responsible for Industries;

“permitted hours” means the hours during which licensed premises are by the Regulations

allowed to be open for the sale of spirits, wine or beer under this Act;

“premises” includes a store, hotel or restaurant and its curtilage and a yard attached to the

curtilage;

“rectify” means to purify spirits by distillation, filtration or any other means;

“refined spirits” means spirits produced by rectifying akpeteshie;

“Regulations” means the Regulations made under this Act;

“sell” includes to dispose of by barter, exchange or in any other manner for valuable consideration;

“spirits” include akpeteshie, brandy, gin, liqueur, rum, whisky and any other distilled liquors and

liquors mixed with spirits and mixture, compounds or preparations made with spirits, but does not include alcohols other than ethyl alcohol and potable methyl alcohol and medical preparations containing alcohol;

“store” includes a house, shop and every other building which is a hotel, bar or restaurant;

“wine” does not include palm wine.

23. Repeals and savings

Spent.2(2)

SCHEDULES

First Schedule

FEES

[Section 1 (3)]

¢

1. Fee for distiller’s licence
2. Fee for distillers nominated under section 1 (2)
 - (a) distiller who methylates only
 - (b) distiller who compounds or blends only
 - (c) distiller who rectifies only

(d) full distiller

400,000

100,000

200,000

400,000

600,000

Second Schedule

FEES

[Section 5 (3)]

¢

1. For a wholesale licence 1,000,000 yearly or
500,000 half-yearly

2. For a store licence 800,000 yearly or
400,000 half-yearly

3. For a hotel licence 1,200,000 yearly or
600,000 half-yearly

4. For a restaurant licence 800,000 yearly or
400,000 half-yearly

5. For an occasional licence 100,000

6. For a bar licence 800,000 yearly or
400,000 half-yearly

7. For an extension of hours licence 10,000 for each
additional hour

8. For a wholesale licence limited to the sale of akpeteshie only 100,000 yearly or
50,000 half-yearly

Third Schedule

DUTY PER GALLON

[Section 6]

[¢400,000]

The duty on part of a gallon shall be in proportion for any part of a gallon. The strength of the spirits shall be determined by

the Sykes' hydrometer.

Fourth Schedule

FEE

[Section 12 (2)]

¢ 120,000 for a yearly licence and ¢ 60,000 for a half-yearly licence.

Endnotes

1 (Popup - Footnote)

1.

The Act was assented to on 2nd July, 1970.

2 (Popup - Footnote)

2.

The original section provided as follows:

“(1) The following enactments are hereby repealed:

Liquor Licences (Spirits) Ordinance (Cap. 220);

Liquor Licences (Wine and Beer) Ordinance (Cap. 221);

Young Persons (Exclusion from Licensed Premises) Ordinance (No. 48 of 1952);

Liquor (Northern Territories) Ordinance (No. 26 of 1953);

Liquor Licences Act, 1959 (No. 19);

Manufacture and Sale of Spirits Act, 1962 (Act 154);

Manufacture and Sale of Spirits (Amendment) Decree, 1967 (N.L.C.D. 209);

Manufacture and Sale of Spirits (Amendment) Decree, 1968 (N.L.C.D. 219).

(2) Notwithstanding the repeal of the Manufacture and Sale of Spirits Act, 1962 (Act 154), all statutory

instruments made thereunder and in force immediately before the commencement of this Act shall continue in force

as if made under the corresponding provision of this Act until revoked, modified or otherwise altered.”