

CHAPTER 77

THE INTOXICATING LIQUORS ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 77

THE INTOXICATING LIQUORS ACT

An Act to provide for the procedure of carrying on the business of selling intoxicating liquors and related matters.

[1st January, 1968]

[G.N. No. 344 of 1968]

Acts Nos.

28 of 1968

27 of 1971

12 of 1978

20 of 1978

70 of 1982

PART I

PRELIMINARY PROVISIONS (ss 1-2)

[PCh77s1]1. Short title

This Act may be cited as the Intoxicating Liquors Act.

[PCh77s2]2. Interpretation

In this Act, unless the context otherwise requires—

"Appeals Committee" means an Appeals Committee, established by section 98;

"district council" means a district council established under the Local Government (District Authorities) Act;

"intoxicating liquor" means, liquor or local liquor;

"licence" means a licence and includes a permit granted under this Act;

"licensee" means the holder of a licence granted under this Act;

"licensing authority" means the authority designated by section 3 to be a licensing authority for the purposes of this Act;

"licensed premises" means premises in respect of which a licence granted under this Act is in force;

"liquor" means—

(a) wine, ale, beer, porter, cider, perry, hop beer and any liquor containing more than two per per centum by weight of absolute alcohol except any bona fide medicine containing intoxicating liquor as herein defined, administered or sold by any duly qualified medical practitioner or pharmacist, or administered by any person purely for medicinal purposes; and

(b) spirits of any description other than industrial spirits as defined in section 2 of the Spirits Act *,

but does not include local liquor or moshi;

"local authority" means a municipal council, district council or town council;

"local liquor" means pombe, fermented asali, tembo, ulanzi and all liquors (other than beer, spirits and wines to which the Excise (Management and Tariff) Act *, applies or moshi) of a kind prepared by the indigenous people of Tanzania which contain more than

one per centum by weight of absolute alcohol and any liquor which the Minister may, by notice in the Gazette, declare to be local liquor;

"member" means a member of a licensing authority and includes the Vice-Chairman;

"Minister" means the Minister responsible for local government;

"moshi" shall have the meaning assigned to that term in the Traditional Liquor (Control of Distillation) Act *;

"municipality" means a municipality established under the Local Government (Urban Authorities) Act *;

"non-spirituous liquor" means liquor which does not consist of or contain any spirits;

"rural area" means any area other than an urban area;

"sell" or "sale" include barter;

"supply" includes a sale and any transfer, whether on a sale or otherwise;

"town council" means a town council established under the Local Government (Urban Authorities) Act *;

"urban area" means any area—

(a) within the jurisdiction of a city, municipal or town council; or

(b) an area which the Minister has, by notice in the Gazette, declared to be an urban area for the purposes of this Act;

"urban settlement" means any area, other than an urban area of a village in terms of the Local Government (District Authorities) Act *, upon which the status of an urban council has not been conferred.

PART II

LICENSING AUTHORITIES (ss 3-7)

[PCh77s3]3. Establishment of licensing authorities Cap. 287; Act No. 12 of 1978 s. 3

(1) Every Village Council established under the Local Government (District Authorities) Act, shall be the licensing authority for the village in respect of which it is established.

(2) Every local authority, other than a district council, shall be the licensing authority for the urban area in respect of which it is established.

(3) Every District Council shall establish a licensing authority which shall have jurisdiction, for the purposes of this Act, in respect of urban settlements within the district for which the Council is established.

[PCh77s4]4. General provisions relating to licensing authorities Act No. 12 of 1978 s. 3

(1) Subject to subsection (2), all matters of procedure, including the convening of meetings, quorum at meetings and the making of decisions, in relation to every licensing authority shall be governed by—

(a) in the case of a licensing authority of a village, the provisions of the Local Government (District Authorities) Act ;

(b) in the case of a licensing authority of an urban area, the provisions of the written law or other instrument by or under which its local authority is established; and

(c) in the case of a licensing authority in respect of urban settlements, the provisions of the Local Government (District Authorities) Act *.

(2) Any member of licensing authority who has a financial interest in the sale of intoxicating liquor in the area over which the licensing authority has jurisdiction shall not attend any meeting at which it considers applications for licences or for their renewal.

[PCh77s5]5.-7. Repealed

[Repealed by Act No. 12 of 1978 s. 3.]

PART III

TYPES OF LICENCES (ss 8-35)

[PCh77s8]8. Liquor licences

A licensing authority may grant the following types of licences in respect of intoxicating liquors—

- (a) a wholesale dealer's licence;
- (b) a retailer's off-licence;
- (c) a retailer's on-licence;
- (d) a hotel licence;
- (e) a restaurant licence;
- (f) a railway station licence;
- (g) a railway restaurant car licence;
- (h) a passenger vessel licence;
- (i) an aerodrome licence;

- (j) a theatre licence;
- (k) a club licence;
- (l) a club beer licence;
- (m) a canteen licence; and
- (n) a temporary intoxicating liquor licence.

[PCh77s9]9. Local liquor licences

A licensing authority may grant the following types of licences in respect of local liquors—

- (a) class A local liquor licence;
- (b) class B local liquor licence;
- (c) class C local liquor licence;
- (d) class D local liquor licence;
- (e) class E local liquor licence; and
- (f) temporary local liquor licence.

[PCh77s10]10. Wholesale dealer's licence

A wholesale dealer's licence shall authorise the holder to sell on the premises specified in the licence for consumption off such premises, or at the licensed premises of the holder of a retailer's licence, at any one time to the same person intoxicating liquor in any quantity of not less than one and one-half gallons whether in casks, bottles or tins, but shall not authorise—

(a) the sale of any intoxicating liquor except in casks or unopened bottles or tins; or

(b) the sale of any intoxicating liquor at the premises of the holder of a retailer's licence to any person other than such holder.

[PCh77s11]11. Retailer's off-licence

A retailer's off-licence shall authorise the holder to sell on the premises at any one time to the same person for consumption off the premises intoxicating liquor in any quantity of not less than one-quarter of a pint and, where the intoxicating liquor is spirituous liquor, not more than two gallons or, where the intoxicating liquor is non-spirituous liquor not more than fourteen gallons, but shall not authorise the sale of any intoxicating liquor except in a bottle or bottles securely corked or stoppered or in a tin or securely sealed.

[PCh77s12]12. Authorised hours in case of wholesale and retailer's off-licence

The holder of a wholesale dealer's licence or a retailer's off-licence may sell intoxicating liquor between the hours of 8 a.m. and 7 p.m. upon any ordinary day and between the hours of 9 a.m. and 12 noon on Sundays and public holidays.

[PCh77s13]13. Retailer's on-licence

(1) A retailer's on-licence shall authorise the holder to sell on the premises intoxicating liquor in any quantity for consumption either on or off the premises.

(2) A licensing authority may if an applicant so desires, or if the licensing authority considers it desirable to do so, issue a retailer's on-licence with the words "non-spirituous"

endorsed thereon in red and the holder of a licence so endorsed shall not supply spirituous liquor to any person.

(3) It shall be an offence for any person to keep spirituous liquors on any premises licensed under a retailer's on-licence which is endorsed as in subsection (2).

[PCh77s14]14. Authorised hours in case of retailer's on-licence Act No. 27 of 1971

s. 2

(1) The holder of a retailer's on-licence may supply intoxicating liquor—

(a) in urban areas, from 6.00 p.m. to 11.00 p.m. on Mondays to Fridays (inclusive) and from 11.00 a.m. to 00 p.m. and from 6.00 p.m. to 12 midnight on Saturdays, Sundays and public holidays;

(b) in rural areas, from 3.00 p.m. to 8.00 p.m. on Mondays to Fridays (inclusive) and from 2 p.m. to 11.00 p.m. on Saturdays, Sundays and public holidays.

(2) At all times other than those during which intoxicating liquor may be sold any part of the premises of the holder of a retailer's on-licence in which intoxicating liquor is sold or stored shall be closed and kept closed to the public, nor shall any person, other than the licensee, his family, and servants be allowed to remain in such part or be admitted thereto; nor shall any intoxicating liquor, whenever or wherever obtained, be consumed on such part of the premises.

(3) Any licensee who contravenes or permits a contravention of this section shall be guilty of an offence.

[PCh77s15]15. Hotel licence

(1) A holder of hotel licence shall sell on the premises intoxicating liquor in any quantity for consumption on the premises to persons lodging at the hotel at any time in the day or night.

(2) A holder of an hotel licence shall keep a visitor's book and shall require every person engaging a room to write his name and address in the book immediately after his arrival, and shall not sell any intoxicating liquor to any person under the authority of hotel licence only, unless such person has first engaged a room and written his name and address as aforesaid.

(3) Any person who supplies intoxicating liquor contrary to the provisions of this section commits an offence.

[PCh77s16]16. Restaurant licence

A holder of a restaurant licence shall sell on the premises intoxicating liquor in any quantity to any person taking a meal in the restaurant to be consumed during such meal on any day but only between twelve noon and 2 p.m. and between 6 p.m. and midnight.

[PCh77s17]17. Combined licences

(1) A combined hotel and retailer's on-licence may be granted at the fee prescribed for the retailer's on-licence.

(2) A combined hotel and restaurant licence may be granted at the fee prescribed for the hotel licence.

(3) A combined restaurant and retailer's on-licence may be granted at the fee prescribed for the retailer's on-licence.

(4) A single application may be made for any such combined licence.

[PCh77s18]18. Railway licences

(1) A holder of a railway station licence shall to sell on the premises intoxicating liquor in any quantity for consumption on the premises to any person arriving or departing from the station by train or lawfully using the station for railway purposes.

(2) A holder of a railway station licence shall sell intoxicating liquor between the hours of 10 a.m. and midnight.

(3) A holder of a railway restaurant car licence shall sell in the restaurant car intoxicating liquor in any quantity for consumption on the train at any time in the day or night to any bona fide passenger by train.

(4) A railway station licence and railway restaurant car licence may be granted by the following licensing authorities—

- (a) for the Tanga line, the licensing authority for the Tanga Municipality;
- (b) for the Central line (including all branch lines), the licensing authority for the City of Dar es Salaam.

(5) A licence shall not be granted under this section except upon the written application of the Director-General or representative of the Director-General of the Tanzania Railway Corporation.

[PCh77s19]19. Passenger vessel licence

(1) A holder of a passenger vessel licence shall sell on the vessel while engaged in carrying passengers intoxicating liquor in any quantity for consumption on the vessel at any time in the day or night.

(2) The following shall be the licensing authority for passenger vessels—

- (a) the licensing authority of the City of Dar es Salaam for sea-going vessels;
- (b) the licensing authority of the Kigoma Township for vessels on Lake Tanganyika;
- (c) the licensing authority of the Mwanza Municipality for vessels on the Lake Victoria;
- (d) the licensing authority of the Rungwe District for vessels on Lake Nyasa.

(3) Unless otherwise prescribed 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 Tanzania if a licence for the sale of intoxicating liquor on the vessel granted under the laws of any other Government is in force, or if the vessel has a net registered tonnage exceeding one thousand tons.

(4) A passenger vessel licence shall be granted to the master or, with the consent of the master, to any other person.

[PCh77s20]20. Aerodrome licence

(1) A holder of an aerodrome licence shall sell on the licensed premises intoxicating liquor in any quantity for consumption on the premises to any person arriving at or departing from the aerodrome by air or lawfully using the premises for purposes connected with air travel.

(2) A combined aerodrome and retailer's on-licence may be granted at the fee prescribed for the retailer's on-licence.

[PCh77s21]21. Theatre licence

A holder of a theatre licence shall in any building a portion of which is used as a place of entertainment, to sell intoxicating liquor for consumption on the premises in the bar and foyer thereof only to members of the audience, the staff and the persons providing the entertainment between 6 p.m. and midnight as the entertainment may continue.

[PCh77s22]22. Club licences Act No. 27 of 1971

(1) A club licence may be granted to a members' club and no club licence shall be granted to a proprietary club.

(2) A holder of a club licence shall authorise the supply of intoxicating liquor, being the property of the members of the club, in any quantity to the members of the club and their guests—

(a) where the club is in an urban area, from 6.00 p.m. to 11.00 p.m. on Mondays to Fridays (inclusive) and from 11.00 a.m. to 2.00 p.m. and 6.00 p.m. to 12.00 midnight on Saturdays, Sundays and public holidays;

(b) where the club is in a rural area, from 3.00 p.m. to 8.00 p.m. on Mondays to Fridays (inclusive) and from 2.00 p.m. to 11.00 p.m. on Saturdays, Sundays and public holidays:

Provided that the Minister may extend in respect of any club the hours during which club may supply intoxicating liquor to members and their guests.

(3) No premises shall be considered to be a members' club where any persons, other than the members and their invited guests, are allowed entry or accommodation or wherein any persons, other than the members, are charged or permitted to pay for any intoxicating liquor refreshment or accommodation obtained therein.

(4) A holder of a club licence shall only authorise intoxicating liquor to be supplied on—

- (a) the premises specified in the licence; or
- (b) the premises temporarily occupied by the club, if at least forty-eight hours' previous notice has been given to a police officer not below the rank of Assistant Inspector.

(5) If on any premises occupied by a club, any intoxicating liquor is supplied to any person, whether a member or not, except under the authority of a licence in accordance with the condition of the licence and the provisions of this Act, the person supplying the liquor and every person authorising its supply shall be deemed to have sold intoxicating liquor without a licence and shall be committed of an offence:

Provided that no licence shall be required under this Act for the supply of intoxicating liquor to the members of a members' club where the liquor is the property of the members and the cost thereof is debited equally to all the members or to all the members consuming the liquor and no extra charge is made to any individual for liquor consumed by him.

(6) A club licence shall be applied for by and issued to the secretary or some other responsible officer on behalf of the club and no transfer of the licence shall be necessary by reason only of any change in the holder of the office.

(7) In this section, a member of a club means a person who has been duly elected or accepted for election in accordance with the rules of the club or who has been admitted as a temporary member of the club.

(8) A licensing authority may require an applicant for or a holder of a club licence to provide the licensing authority with such information as the licensing authority may reasonably require as to any of the matters mentioned in subsection (7), including a copy of the rules of the club.

(9) A licensing authority may revoke any licence granted to a club under the provisions of this section if it has reasonable cause to believe that the club persistently supplies intoxicating liquor to persons who are not bona fide members of the club or their guests or that the liquor sold is not the property of the members of the club.

[PCh77s23]23. Club beer licence

(1) A holder of a club beer licence shall supply intoxicating liquors other than spirits, being the property of the members of the club, in any quantity to the members of the club and their guests on any day and at such time in the day or night as may be specified in the licence.

(2) The provisions of section 22 relating to a members' club licence shall, mutatis mutandis, apply to a club beer licence.

[PCh77s24]24. Canteen licence

(1) A holder of a canteen licence shall supply intoxicating liquor on the premises specified in the licence to members of the Police Force or Prisons Service and their guests during such hours as the Inspector-General of Police or the Commissioner of Prisons, as the case may be, may direct and such licence shall not be issued to any person not being a member of the Police Force or Prisons Service, who supplies intoxicating liquor in a police canteen or prisons canteen for profit.

(2) A canteen licence shall be applied for by and issued to the officer in charge of police or the officer in charge of prisons in the area of jurisdiction of the licensing authority or to such other officer as the Inspector-General of Police or the Commissioner of Prisons, as the case may be, may appoint.

(3) A licensing authority may revoke any licence granted under this section if it has reasonable cause to believe that the canteen persistently supplies intoxicating liquor to persons who are not bona fide members of the Police Force or Prisons Service, as the case may be, or their guests.

(4) A canteen licence shall not be granted in respect of any premises where any persons, other than members of the Police Force or Prisons Service and their invited guests, are allowed entry or accommodation or wherein any persons, other than members of the Police Force or Prisons Service, are charged or permitted to pay for any intoxicating liquor, refreshment or accommodation obtained therein.

[PCh77s25]25. Temporary licence

(1) A holder of a temporary intoxicating liquor licence shall sell on the premises specified in the temporary licence 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.

(2) The sale of intoxicating liquor under a temporary licence shall, unless the licensing authority otherwise authorises, be restricted to the following hours—

(a) in urban areas, from 12 noon to 2 p.m. and 5 p.m. to 12 midnight on Mondays to Fridays (inclusive) and from 11 a.m. to 2 p.m. and 6 p.m. to 12 midnight on Saturdays and Sundays;

(b) in rural areas, from 4 p.m. to 11 p.m. on Sundays.

(3) A licensing authority which has issued a temporary licence may, on application being made, extend the same for a further period not exceeding three days.

[PCh77s26]26. Licensing authority may prohibit sale of local liquor

(1) A licensing authority may, if an applicant so desires or if the licensing authority considers it desirable to do so, endorse any licence referred to in section 8 with the words "Not applicable to Local Liquors".

(2) Where a licence is endorsed in accordance with subsection (1) it shall be an offence for the licensee to sell, supply, store or deal in any local liquor.

[PCh77s27]27. Class A local liquor licence

A holder of a class A local liquor licence shall manufacture local liquor on the licensed premises and sell such licensed liquor on such premises for consumption either on or off the premises:

Provided that a holder of a class A local liquor licence shall not sell to the same person at any one time local liquor for consumption off the premises in excess of sixteen gallons.

[PCh77s28]28. Class B local liquor licence

A holder of class B local liquor licence shall manufacture local liquor on the premises specified in the licence for sale by him on some other premises licensed for the sale of such liquor for consumption either on or off such other premises.

[PCh77s29]29. Class C local liquor licence

A holder of class C local liquor licence shall manufacture local liquor on the premises specified in the licence to supply local liquor manufactured by him to a holder of class D or class E licence or to a holder of any licence referred to in section 8 which is not endorsed in accordance with subsection (1) of section 26.

[PCh77s30]30. Class D local liquor licence

A holder of class D local liquor licence shall local sell local liquor on the licensed premises for consumption on or off the premises:

Provided that a holder of a class D local liquor licence shall not sell to the same person at any one time local liquor for consumption off the premises in excess of sixteen gallons.

[PCh77s31]31. Class E local liquor licence

A holder of class E local liquor licence shall sell local liquor on the licensed premises for consumption off the premises:

Provided that a holder of a class E local liquor licence shall not sell to the same person at any one time local liquor in excess of sixteen gallons.

[PCh77s32]32. Temporary local liquor licence

(1) A Licensing authority may grant a temporary local liquor licence which may authorise the holder to manufacture or to sell or to both manufacture and sell local liquor for any period not exceeding seven days.

(2) A holder of a temporary local liquor licence for the sale of local liquor shall sell local liquor on the licensed premises for consumption on such premises.

[PCh77s33]33. Hours of sale of local liquor Act No. 27 of 1971 s. 4

(1) The sale of local liquor under a class A, class D, class E or temporary licence for the sale of local liquor shall be restricted to the following hours—

(a) in urban areas from 00 p.m. to 11.00 on Mondays to Fridays (inclusive) and from 11.00 a.m. to 2.00 p.m. and from 6.00 p.m. to 12.00 midnight on Saturdays, Sundays and public holidays;

(b) in rural areas from 3.00 p.m. to 8.00 p.m. on Mondays to Fridays (inclusive) and from 2.00 p.m. to 11.00 p.m. on Saturdays, Sundays and public holidays.

(2) At all times other than those during which local liquor may be sold any part of the premises in which local liquor is sold or stored shall be closed and kept closed to the public, nor shall any person, other than the licensee, his family, and servants be allowed to remain in such part or be admitted thereto; nor shall any local liquor, whenever or wherever obtained, be consumed on such part of the premises.

(3) Any licensee who contravenes or permits a contravention of this section commits an offence.

[PCh77s34]34. Liquor licence may be restricted to particular kind of local liquor

A licensing authority may, if an applicant so desires or if the licensing authority considers it desirable to do so restrict any local liquor licence or any intoxicating liquor licence to local liquor of a description specified in the licence and where a licence is so restricted it shall be an offence for the licensee to sell, supply, deal in or store local liquor of any other description.

[PCh77s35]35. Local liquor market

(1) A local authority may with the approval of the licensing authority having jurisdiction over the area of jurisdiction of the local authority establish a local liquor market.

(2) Every local liquor market shall be of such design and shall have such facilities as the licensing authority may approve.

(3) Where a local liquor market has been established any person may, on obtaining a permit and subject to such conditions as may be imposed by the licensing authority, manufacture and sell local liquor within such market.

(4) Unless otherwise prescribed, permits under subsection (3) may be granted for the same periods and at the same fees as class A local liquor licences and the holder of a permit under subsection (3) shall be deemed to be the holder of a class A local liquor licence, and the local liquor market shall be deemed to be licensed premises and the provisions of this Act which apply to class A local liquor licence shall apply, mutatis mutandis, to permits under this section.

(5) Notwithstanding the provisions of subsection (3) and (4) a licensing authority may grant a permit authorising the holder to sell local liquor at a local liquor market and

every holder of a permit granted under this subsection shall be deemed to be the holder of a class D local liquor licence and the provisions of this Act (including provisions relating to fees) which apply to class D local liquor licences shall apply, mutatis mutandis, to permits under this subsection.

(6) Where in a local liquor market there are inadequate facilities for the manufacture of local liquor, the licensing authority may issue a permit for the manufacture of local liquor elsewhere, but provided that the local liquor so manufactured shall not be sold elsewhere than in the local liquor market.

(7) A local authority may, with the approval of the Minister, make by-laws regulating the use of local liquor markets within its area of jurisdiction of local jurisdiction and the sale of local liquor in such markets and the conduct of persons resorting thereto.

(8) In the event of a disagreement between a local authority and the licensing authority having jurisdiction over the area of jurisdiction of the local authority on any matter which under this section is required to be done by agreement of both or by one with the approval of the other, the matter shall be referred to the Minister whose decision thereon shall be final and binding on both the local authority and the licensing authority.

PART IV

PROCEDURE IN APPLICATIONS FOR AND THE GRANT OF LICENCES (ss 36-45)

[PCh77s36]36. Application for a licence Act No. 12 of 1978 s. 4; Act No. 20 of 1978 s. 5

(1) Every application for a licence shall be made to and be heard by the licensing authority having jurisdiction over the area within which the premises for which a licence is sought are and the licensing authority may in its discretion grant or refuse any application.

(2) Every application for a licence shall be accompanied by documentary evidence or a written explanation satisfactory to the licensing authority regarding the payment or, as the case be, exemption from payment, by the applicant of income tax or such other tax as the Minister may, by notice in the Gazette, specify for the purposes of this section.

[PCh77s37]37. Notification of application for licence Act No. 12 of 1978 s. 4

(1) Any person who wishes to apply for a licence, other than a temporary referred to in section 8, shall licence, submit his application in quadruplicate to the licensing authority, together with the prescribed fee.

(2) Any person who wishes to apply for a licence referred to in section 9 shall submit his application to the licensing authority in the prescribed form, together with the prescribed fee.

(3) The licensing authority shall forward one copy of the application made under subsection (1) to the senior officer of police and one copy to the medical officer of Health, or to the medical officer performing the functions of Medical Officer in the area within which the licensing authority has jurisdiction and, before hearing the application, it shall cause one copy of the application to be posted at the office of the licensing authority for at least fourteen days.

(4) The police officer to whom a copy of an application is forwarded under subsection (3) shall report in writing to the licensing authority on all matters material to

that application, but the licensing authority may in its discretion require the presence of that police officer at the hearing of the application.

(5) A licensing authority may receive and consider any report made to it by the Medical Officer of Health or the medical officer performing the functions of Medical Officer of Health.

(6) Nothing in this section shall preclude a licensing authority from seeking the advice of a senior officer of police or a Medical Officer of Health in relation to any application for a licence made under subsection (2).

[PCh77s38]38. Days for hearing of applications Act No. 12 of 1978 s. 4

(1) Notwithstanding section 4, each licensing authority shall appoint a day in the first half of March and a day in the first half of September for hearing applications for licences for the half-year commencing on the first day of the following April or October as the case may be, but may in its discretion hear an application at any other time.

(2) A licensing authority shall hold a special meeting to hear an application if requested to do so by the applicant and on payment by him to the licensing authority of an additional fee of one thousand shillings.

(3) A licensing authority shall give at least fourteen days' public notice of any day appointed for hearing an application for a licence.

[PCh77s39]39. Objections Act No. 12 of 1978 s. 4

(1) Any person may object to the granting of a licence.

(2) Every objection to the granting of a licence shall be either—

(a) made in writing to the secretary of the licensing authority prior to the hearing of the applications, and, if so made, notice in writing of the grounds of the objection shall be served by the objector on the applicant, at least three days before the hearing of the application; or

(b) made at the hearing of the application.

(3) Where an objection is made in the manner specified in subsection (2)(a) and the objector fails to serve notice of the grounds of the objection in the manner specified in that subsection or where an objection is made in the manner specified in subsection (2)(b) the licensing authority shall, if so requested by the applicant, adjourn the hearing of the application for a period not exceeding seven days to enable him to answer the objection.

[PCh77s40]40. Amendment of application Act No. 12 of 1978 s. 4

(1) A licensing authority may permit an application to be amended as may be necessary.

(2) A licensing authority may require such public notice of an amended application to be given as it may in its discretion consider necessary.

[PCh77s41]41. Application for temporary licence Act No. 12 of 1978 s. 4

(1) An application for a temporary licence shall be in the prescribed form.

(2) A licensing authority may authorise the chairman or any of its members to exercise its powers in relation to temporary licences and in that event all references in this Act to a licensing authority shall in so far as they relate to a temporary licence, be construed as references to the chairman or that member of a licensing authority.

(3) A licensing authority may require such public notice of an application for a temporary licence to be given as it may in its discretion consider necessary.

(4) The grantee of a temporary licence shall, at least twenty-four hours before commencing to supply intoxicating liquor inform the officer-in-charge of police in the area of jurisdiction of the licensing authority of the grant of that temporary licence.

(5) Any person who supplies intoxicating liquor in contravention of subsection (4) commits an offence and is liable upon conviction to a fine not exceeding five hundred shillings.

[PCh77s42]42. Appeals Act No. 12 of 1978 s. 4

(1) Any person who is aggrieved by any decision given under this Act by a licensing authority of a village may, within thirty days of the date when that decision is given, appeal to the Appeals Committee of the district in which the village is.

(2) Any person who is aggrieved by any decision given under this Act by a licensing authority of an urban settlement may, within thirty days of the date when that decision is given, appeal to the Appeals Committee of the region in which the urban settlement is.

(3) Any person who is aggrieved by any decision given under this Act by a licensing authority of an urban area may, within thirty days of the date when that decision is given, appeal to the Minister.

[PCh77s43]43. Procedure in respect of appeals Act No. 12 of 1978 s. 4

The Minister may make regulations regulating the procedure for appeals made under this Act, and those regulations shall be published in the Gazette.

PART V

[PCh77s44]44.-45. Repealed

[Repealed by Act No. 12 of 1978.]

PART VI

GENERAL PROVISIONS RELATING TO LICENCES (ss 46-65)

[PCh77s46]46. Grant of licences

All licences shall, unless the Minister otherwise directs, be granted under the hand of the chairman of the licensing authority.

[PCh77s47]47. Licence may not be granted or transferred to certain persons

(1) A licence shall not be granted or transferred to—

- (a) a person under the age of twenty-one years;
- (b) an undischarged bankrupt.

(2) A licence shall not without the consent of the Minister be granted or transferred—

- (a) to any person whose licence has been forfeited until the expiration of two years from the date of the forfeiture;
- (b) to any person whose licence has been convicted of an offence relating to the sale of intoxicating liquor without a licence until the expiration of two years from the date of conviction;

(c) to any person who has at any time been sentenced to imprisonment for any term exceeding six months.

(3) A licence granted or transferred in contravention of this section shall be void.

[PCh77s48]48. Power to attach conditions to a licence

A licensing authority may attach to any licence such conditions as the licensing authority thinks expedient in the public interest and shall attach to a licence any conditions which may be prescribed.

[PCh77s49]49. Licensing authority to be satisfied that premises are sanitary and may suspend a licence if premises are insanitary

(1) No licence shall be granted unless the premises to be licensed are in a proper state of repair and in all respects suitable for the purpose and, where the premises are to be used for the sale of intoxicating liquor for consumption thereon or for the manufacture of local liquor, the premises are provided with adequate sanitary arrangements to the satisfaction of the licensing authority.

(2) If at any time a licensing authority is satisfied that requirements of subsection (1) are not being complied with it may suspend or revoke the licence and shall not terminate the suspension of a licensee or grant a new licence to the licensee unless satisfied that such requirements have been complied with.

(3) Any person who manufactures or supplies or attempts to supply intoxicating liquor while his licence is suspended commits an offence.

[PCh77s50]50. Licences for premises in course of construction

A licensing authority may, subject to such conditions as it thinks fit to impose, grant a provisional licence for premises intended to be constructed or in course of construction, either to a named person or to a person to be named subsequently by the applicant and approved by the licensing authority, but the licence shall not be operative until there is endorsed thereon a certificate under the hand of the chairman of the licensing authority that the premises have been completed and that all conditions imposed have been fulfilled to the licensing authority's satisfaction.

[PCh77s51]51. Death or bankruptcy occurring before grant of licence

If the applicant for a licence dies or becomes bankrupt before the licence has been granted, the licensing authority may, subject to the provisions of section 47, grant the licence to the legal personal representative of the deceased or to the trustee of the estate of the bankrupt.

[PCh77s52]52. Transfer or removal of licence

A licensing authority may in its discretion on payment of the prescribed fee and subject to the provisions of section 47 and to such conditions as it may see fit to impose permit—

(a) the transfer to another person of a licence for the remainder of the period of its validity; or

(b) the removal to different premises of a licence for the remainder of the period of its validity,

and any licence so transferred or removed shall be endorsed "transferred" or "removed" as the case may be.

[PCh77s53]53. Making a false statement in an application

If any person when applying for a licence makes any statement which he knows to be false in any material particular he shall be committing an offence.

[PCh77s54]54. Licensing authority may require attendance of applicant and may examine him on oath

(1) A licensing authority may require an applicant for a licence or for the transfer or removal of a licence to attend before it and be examined on oath concerning any matter material to the application.

(2) For the purposes of this section the chairman of a licensing authority shall have power to administer an oath.

[PCh77s55]55. Form of licence and date of commencement

Every licence shall be in the prescribed form and shall commence on the date it is expressed to commence and, if not previously revoked, forfeited or surrendered, shall, unless otherwise prescribed, continue in force until the next following thirtieth day of September or thirty-first day of March whichever is the earlier.

[PCh77s56]56. Separate licence for each set of premises

A separate licence shall be required and a separate fee shall be payable for each distinct set of premises.

[PCh77s57]57. Payment of fee by instalment

(1) A licensing authority may allow any fee exceeding two hundred and fifty shillings to be paid in two equal instalments, the first instalment to be paid on the issue of

the licence and the second instalment to be paid on such date as may be determined by the licensing authority, not being later than three months before the expiration of the licence.

(2) If the second instalment is not paid within seven days after it becomes due, the licence shall become void, but may be restored by the licensing authority on payment of the instalment and of a penalty equal to half the amount of the instalment.

[PCh77s58]58. Licence fee may be reduced where licence is not to run for more than five months

Where a licence commences on such a date that it will not have more than five months to run, the fee for the licence shall be reduced proportionately, but shall be computed as if the licence commenced on the first day of the month in which it actually commences.

[PCh77s59]59. Duplicates

Where a licensing authority is satisfied that a licence has been lost or destroyed the licensing authority shall on payment of the prescribed fee issue a duplicate licence to the licensee.

[PCh77s60]60. Surrender of a licence

A licence may be surrendered to the licensing authority at any time, and thereupon the licensee shall be entitled to a refund—

(a) if the unexpired period of the licence is three months or more, of one half of the fee; or

(b) if the unexpired period of the licence is less than three months and more than two months, of one quarter of the fee.

[PCh77s61]61. Extension of hours

A licensing authority may, in special circumstances and upon payment of the prescribed fee, grant an extension of the hours during which intoxicating liquor may be sold on the premises of a licensee.

[PCh77s62]62. Delegation of functions

A licensing authority may authorise the chairman or a member of such licensing authority to exercise the powers of the licensing authority under section 61 and thereupon such powers shall be exercised by the person so authorised.

[PCh77s63]63. Reduction of hours Act No. 27 of 1971 s. 5

(1) The Minister may, by order in the Gazette, reduce the hours during which intoxicating liquor may be sold on the premises of a licensee in any area of Tanzania and where such order is made the licences held or granted to any licensee in the area in respect of which the order is made shall, notwithstanding any provision of this Act to the contrary, be deemed to be authority to sell intoxicating liquor only during the hours specified in the order.

(2) Notwithstanding the provisions of section 14, section 33 or any other provisions of this Act, a licensing authority may, with the consent of the Minister, direct that within the area of its jurisdiction or any part of such area, the hours during which intoxicating liquors may be supplied on the premises of a licensee, shall be such hours as the licensing authority may prescribe in relation to such area or portion of area:

Provided that no licensing authority shall, in exercise of its powers under this subsection—

(a) give any direction in respect of any area or portion of an area which would permit a licensee in such area or, as the case may be, portion of an area, to supply intoxicating liquors on his premises at any time earlier than—

(i) in the case of an urban area, 6.00 p.m. on any day other than a Saturday, Sunday or public holiday and 11.00 a.m. on Saturdays, Sundays and public holidays;

(ii) in a rural area, 3.00 p.m. on any day other than a Saturday, Sunday or public holiday and 2.00 p.m. on Saturdays, Sundays and public holidays;

(b) prescribe hours in relation to any area or a portion of an area which would result in the total number of hours during which intoxicating liquors may be supplied on the premises of a licensee on any day exceeding the total number of hours during which, but for such direction, intoxicating liquors could lawfully be supplied on the premises of such licensee on such day.

[PCh77s64]64. Refund of fee where hours reduced

Where the Minister makes an order under section 63 he may direct the licensing authority having jurisdiction over the area to which such order applies to refund to the licensees such portion of the fees paid by them as he may think just.

[PCh77s65]65. Minister may cancel licences in certain cases Act No. 27 of 1971 s.

7

(1) Where the Minister is satisfied that a licensee—

(a) has been convicted of an offence under section 76; or

(b) permits his licensed premises to be used as a place of habitual meeting or resort of reputed prostitutes or of persons indecently dressed; or

(c) permits his licensed premises to be used as a place of habitual meeting or resort of persons who constitute or are likely to constitute a threat to the security, peace and good order of the United Republic,

he may, by order under his hand, cancel the licence of such licensee.

(2) Every cancellation under subsection (1) shall be final and shall not be subject to review by any court:

Provided that the Minister may, upon such conditions as he may deem fit to impose, restore the licence of any licensee whose licence has been cancelled under this section.

[s. 64A]

PART VII

OFFENCES (ss 66-83)

[PCh77s66]66. Illegal manufacture or sale of intoxicating liquor

(1) Any person who sells, exposes, offers, or keeps for sale any intoxicating liquor, or manufactures any local liquor, except under the authority of a licence, or otherwise than in accordance with the provisions of this Act and any conditions attached to the licence, commits an offence.

(2) Every occupier of any premises on which any intoxicating liquor is sold or exposed, offered or kept for sale in contravention of this section shall, unless he proves

that the offence was committed without his privy or consent, be deemed to have contravened the provisions of preceding subsection (1).

[s. 65]

[PCh77s67]67. Restriction on carrying on other business on licensed premises

(1) The holder of a licence to sell intoxicating liquor to be consumed on the premises shall not, except with the written consent of the licensing authority, 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, smokers' requisites, and similar commodities.

(2) Any person who contravenes the provisions of this section commits an offence and is liable upon conviction to a fine not exceeding five hundred shillings.

[s. 66]

[PCh77s68]68. Sale of tobacco, etc., by licence holder

(1) Notwithstanding the provisions of any law for the time being in force relating to trading licences the holder of a licence for the sale of intoxicating liquor on the premises may on those premises and during authorised hours carry on the business of the sale of cigars, cigarettes, tobacco and matches without a trading licence.

(2) In addition to the rights permitted by the foregoing subsection the holder of a hotel, restaurant or theatre licence may also carry on the business of the sale of confectionery without a trading licence.

[s. 67]

[PCh77s69]69. Supplying intoxicating liquor to a person under the age of sixteen years.

Any licensee who supplies intoxicating liquor to any person under the apparent age of sixteen years commits an offence.

[s. 68]

[PCh77s70]70. Employing persons under the age of sixteen years

(1) Any licensee who employs any person under the apparent age of sixteen years to—

- (a) sell or control or supervise the sale of intoxicating liquor;
- (b) have the custody or control of any intoxicating liquor on the premises,

commits an offence.

(2) Any licensee who permits any person under the apparent age of sixteen years to remain present on his licensed premises in any room, courtyard or other place in which intoxicating liquor is being served for consumption commits an offence:

Provided that nothing in this subsection shall apply to any licensed restaurant, hotel dining room, hotel lounge or a lounge or dining room in a club where the intoxicating liquor consumed therein is served from a room on the licensed premises other than such restaurant, dining room or lounge, or to any other room or place on licensed premises in respect of which express provision is made in the licence permitting persons under the apparent age of sixteen years to be present while intoxicating liquor is being consumed.

[s. 69]

[PCh77s71]71. Alterations to retailer's premises

(1) An alteration in premises licensed under a retailer's on-licence or under a class A or D local liquor licence which gives increased facilities for drinking or conceals from observation any part of the premises used for drinking, or which 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 public space shall not be made without the consent of the licensing authority.

(2) If any such alteration is made without such consent, the licensee shall be committing an offence and the court may declare the licence to be forfeited, or direct that, within a time to be fixed by the court, the premises shall be restored to their original condition and that in default of such restoration the licence shall be forfeited.

[s. 70]

[PCh77s72]72. Improper storage of intoxicating liquor

Any licensee who stores any intoxicating liquor intended for sale in any place other than the licensed premises or premises previously approved for the purpose by a licensing authority, or in a warehouse licensed by the Commissioner of Customs for the storage of dutiable goods commits an offence and is liable upon conviction to a fine not exceeding five hundred shillings.

[s. 71]

[PCh77s73]73. Exhibition of name of licensee

(1) A licensee shall exhibit and keep exhibited over the public entrance to his licensed premises in such form and manner as the licensing authority directs his name

followed by the word "licensed" and words sufficient, in the opinion of the licensing authority, to express the nature of his licence, and whether the licence authorises the sale of intoxicating liquor to be consumed on or off the premises only, and any licensee who fails to do so commits an offence.

(2) Any person, other than a licensee, who exhibits any words or letters likely to lead to the belief that he holds a licence, or that he sells or supplies intoxicating liquor commits an offence.

(3) Any licensee who exhibits any words or letters likely to lead to the belief that he holds a licence of a type different from his licence, or that he sells or supplies any intoxicating liquor in a manner not authorised by his licence an offence.

(4) A licensee shall exhibit and keep exhibited his licence commits in a conspicuous place inside the licensed premises.

(5) Nothing in subsection (1) or (4) of this section shall apply to the holder of a members' club licence, a club beer licence, a canteen licence, a temporary licence or a permit under section 98.

[s. 72]

[PCh77s74]74. Drunkenness on licensed premises

(1) Any licensee who permits drunkenness or any disorderly conduct to take place on his licensed premises, or who supplies any intoxicating liquor to a drunken person, or by any means encourages or incites any such person to drink intoxicating liquor commits an offence.

(2) If in any proceedings for an offence under this section it is proved that any person was drunk on licensed premises, the licensee shall be deemed to have committed the offence of supplying intoxicating liquor to a drunken person unless he proves that he and the persons employed by him took all reasonable steps for preventing drunkenness on the premises.

[s. 73]

[PCh77s75]75. Power to exclude drunkards and others Act No. 27 of 1971

(1) A licensee, his agents, or servants may refuse to serve or to admit to the licensed premises and may remove from the licensed premises, using such force as may be reasonably necessary, any person who is drunken, or disorderly, or to whom the supply of intoxicating liquor is prohibited or who is indecently dressed or in respect of whom the licensee has reason to believe that such person uses or is likely to use such licensed premises as a place of meeting with any other person or persons for any purpose which constitutes or is likely to constitute a threat to the security, peace and good order of the United Republic.

(2) If any such person, upon being requested by the licensee, his agent or servant, or any police officer, refuses or fails to quit the premises he commits an offence and is liable upon conviction to a fine not exceeding five hundred shillings and it shall be the duty of any police officer, on the demand of the licensee, his agent or servant, to remove or assist in removing such person from the premises, using such force as may be reasonably necessary.

[s. 74]

[PCh77s76]76. Licensed premises not to be used as brothel

(1) Any licensee who permits his licensed premises to be used as a brothel, or as a place of habitual meeting or resort of reputed prostitutes, commits an offence.

(2) If a licensee is convicted under this section, the court may order that his licence be forfeited.

[s. 75]

[PCh77s77]77. Supply of intoxicating liquor to police officers

(1) A licensee shall not, unless by authority of a police officer of or above the rank of Assistant Superintendent of Police—

(a) knowingly suffer any police officer below the rank of Assistant Superintendent while on duty to enter or remain on his premises, being premises on which sale for consumption on the premises is authorised, unless for the purposes of keeping or restoring order or in execution of his duty; or

(b) knowingly supply any intoxicating liquor or refreshment to any such police officer when on duty.

(2) Any licensee who contravenes the provisions of this section commits an offence and is liable upon conviction to a fine not exceeding five hundred shillings.

[s. 76]

[PCh77s78]78. Gambling

Any licensee who permits any gaming or gambling to be carried on in his licensed premises commits an offence.

[s. 77]

[PCh77s79]79. Personal supervision by licensee

(1) Unless permitted by his licence, every licensee shall personally superintend the conduct of the business carried on under the authority of his licence, and shall not, without the consent of the licensing authority, absent himself from the business for more than thirty consecutive days at one time.

(2) Where the licensee is a company or does not intend personally to superintend the business, the name of the responsible manager of the business shall be stated in the licence, and the licensee shall not employ any other person to superintend the business carried on under the authority of his licence for more than thirty consecutive days at one time except with the previous consent of the licensing authority.

(3) Any licensee who fails to comply with the provisions of this section commits an offence and upon conviction to a fine not exceeding five hundred shillings.

[s. 78]

[PCh77s80]80. Sales by auction

(1) A licensee in person or any person on his behalf licensed as an auctioneer may sell intoxicating liquor, being the property of the licensee, by auction on his licensed premises, not being premises on which sale for consumption on the premises is permitted, or, with the prior consent of licensing authority, on any other premises.

(2) Any person licensed as an auctioneer may, with the consent of a licensing authority, sell intoxicating liquor by auction on behalf—

(a) of the persona representative of a deceased person;

(b) of the trustee of the property of a bankrupt or the liquidator of a company;
or

(c) of any person when the sale is not by way of trade.

(3) No intoxicating liquor shall be sold by auction on premises licensed for the sale of intoxicating liquor for consumption on the premises, or in less than two-gallon lots or except in casks or unopened bottles or tins.

(4) Any person with the prior consent of a licensing authority may auction on any premises approved by the licensing authority intoxicating liquor in any quantity for any social, charitable or benevolent purpose and a licensing authority may authorise the chairman or a member of the licensing authority to exercise the powers of such licensing authority under this subsection and thereupon such powers shall be exercised by the person so authorised.

(5) Save as aforesaid, any person who sells intoxicating liquor by auction an offence.

[s. 79]

[PCh77s81]81. Tapping of palm trees

(1) No person shall tap trees for palm wine without the permit of a licensing authority which may be issued on payment of a prescribed fee and shall authorise the holder to tap a specified number of trees in such area, for such period and within such hours as may be specified in the permit.

(2) The tapping shall be carried out in accordance with any rules for the time being in force under the Plant Protection Act *.

(3) A permit under this section may be revoked at any time and shall be produced by the holder to any officer of the licensing authority or of the local authority or to any police officer on demand.

(4) Notwithstanding anything contained in this Act, the holder of a permit to tap trees for palm wine and his family and friends may consume any palm wine so obtained and no palm wine shall be brought to any licensed premises unless the licence of such premises expressly authorises the sale of palm wine and no palm wine shall be sold except on such licensed premises.

(5) Any person who contravenes any of the provisions of this section, or who taps trees for palm wine otherwise than in accordance with the terms of this permit, commits an offence.

[s. 80]

[PCh77s82]82. Power to prohibit manufacture etc., of specified local liquors

(1) It shall be lawful for the Minister by order published in the Gazette to prohibit the manufacture, preparation, sale or possession by any person of any local liquor specified in the order.

(2) Any person who contravenes the provisions of any order made in pursuance of subsection (1) is liable upon conviction to a fine of five thousand shillings or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

[s. 81]

[PCh77s83]83. Infringement of conditions of licence

If a licensee or a holder of a permit infringes the provisions of a licence or permit or of any of the conditions attached to any licence or permit, or of any of the conditions attached to the approval for the transfer or removal of a licence, the licensee or the holder of the permit, as the case may be, commits an offence.

[s. 82]

PART VIII

PREVENTION AND DETECTION OF OFFENCES (ss 84-87)

[PCh77s84]84. Power to enter and inspect licensed premises

(1) Any police officer, medical officer of health, health inspector or administrative officer or an officer of a local authority duly authorised in that behalf may at any time enter on and inspect any licensed premises and any premises approved for the storage of intoxicating liquor for the purpose of preventing or detecting an offence or observing the state of repair and sanitary condition of the premises and the general conduct of the business, and may require the licence for the premises to be produced for his inspection.

(2) Any licensee who refuses or fails to admit any such person to his premises or any part thereof, or to produce his licence on the demand of any such person or to afford such person every facility in the exercise of his power under this section, commits an offence.

[s. 83]

[PCh77s85]85. Search warrant for detention of liquor sold or kept contrary to law

(1) Any magistrate, if satisfied by information on oath that there is reasonable ground to believe that any intoxicating liquor is unlawfully sold or exposed or kept for

unlawful sale or unlawfully manufactured or stored at any place within his jurisdiction, whether a building or not, may grant a warrant under his hand by virtue whereof it shall be lawful for any police officer at any time or times within one month from the date thereof to enter, if need be by force, the place named in the warrant, and every part thereof, and examine the same and search for intoxicating liquor therein, and seize and remove and take before a magistrate any intoxicating liquor found therein which there is reasonable ground to suppose is unlawfully stored for sale or is in the place for the purpose of unlawful sale at that or any other place or has been unlawfully sold or manufactured and the vessels containing the intoxicating liquor.

(2) If the owner or occupier of the premises so entered is convicted of an offence against this Act, the court may order that all or any of the intoxicating liquor so seized and the vessels containing the liquor shall be forfeited to the Government.

(3) When any intoxicating liquor is found on any premises which have been entered in pursuance of a warrant under this section, any person found at the time on the premises may, if he refuses or fails to give his name and address on demand by a police officer, or if the police officer has reason to believe that the name or address so given is false, be arrested by any police officer without warrant.

(4) If any person required by a police officer under this section to give his name and address fails to give his name and address, or gives a false name and address, that person commits an offence.

(5) This section shall apply to intoxicating liquor in process of manufacture and to materials and implements used or intended to be used for the manufacture of intoxicating liquor in like manner as it applies to intoxicating liquor.

[s. 84]

[PCh77s86]86. Power to close licensed premises in case of disorder

(1) Any administrative officer or police officer may, in any place where any disorder occurs or is expected, order that all or any licensed premises in or near that place be closed for any period specified in the order.

(2) If any such order is infringed, the licensee of the premises concerned shall commit an offence.

(3) Any order made under this section shall be sufficiently communicated to a licensee if a copy thereof is left at the licensed premises or if the substance of the order is communicated to the licensee or to any person appearing to be in charge of the licensed premises orally or in writing by an administrative officer or a police officer.

(4) Notwithstanding the provisions of subsection (1) no order shall be made for the closure of licensed premises for a period exceeding thirty days without the approval of the Minister.

(5) Where pursuant to an order or orders made under this section any licensed premises remaining closed for a period or periods in the aggregate of thirty days or more during the validity of the licence granted in respect of the licensed premises the Minister may, if he thinks fit, direct that such portion of the licence fee as he may deem appropriate be refunded to the licensee.

[s. 85]

[PCh77s87]87. Limitation on powers of police officers below the rank of Assistant Inspector

The powers conferred on a police officer by sections 84, 85 and 86 or by a warrant under section 85 shall not be exercised by any police officer below the rank of Assistant Inspector.

[s. 86]

PART IX

FORFEITURES (ss 88-89)

[PCh77s88]88. Forfeiture of licence

(1) In addition to any other case in which a licence may be forfeited, a court by whom a licensee is convicted of a second or any subsequent offence under this Act, may order his licence to be forfeited.

(2) If any licensee is, under this Act, or any other written law, sentenced to imprisonment without the option of a fine for a term exceeding fourteen days the court may order his licence to be forfeited, and shall do so if the term of imprisonment exceeds six months.

[s. 87]

[PCh77s89]89. Forfeiture of intoxicating liquor

Where any person is convicted of an offence against this Act, the court may, if it thinks fit, order that any intoxicating liquor in respect of which the offence was committed, and also, after giving any interested person an opportunity of being heard, any

intoxicating liquor found in the possession of the person convicted or on the premises in which the offence was committed which, in the opinion of the court, has been or was intended to be dealt with in contravention of any provision of this Act, shall, together with the vessels containing the liquor, be forfeited to the Government.

[s. 88]

PART X

EXEMPTIONS (ss 90)

[PCh77s90]90. Exemptions from the Act

(1) Nothing in this Act shall apply to—

- (a) the sale of intoxicating liquor by order of any court;
- (b) the sale of intoxicating liquor to a member of any naval, military or air force institute or mess recognised as such by the Minister;
- (c) the manufacture or denaturing of spirits as defined in the Excise (Management and Tariff) Act *.

(2) Nothing in this Act, except the restriction as to sale by auction, shall apply to—

- (a) a sale of intoxicating liquor by a person who is not a licensee, not being for profit or in the course of business or by way of trade;
- (b) the sale by the personal representative of a deceased person of intoxicating liquor forming part of the estate of the deceased person;
- (c) the sale by the trustee of the property of a bankrupt of intoxicating liquor forming part of the estate of the bankrupt:

Provided that no sale shall be made under this subsection except in casks or unopened bottles or tins.

(3) The Minister may, for the purpose of preventing the evasion of the provisions of this Act by means of the exemptions under this section, make such regulations as may be necessary.

[s. 89]

PART XI

MISCELLANEOUS PROVISIONS (ss 91-108)

[PCh77s91]91. Offences by servants and agents

(1) Anything which, if done by a licensee personally, would be an offence under this Act, shall also be an offence if done by any servant or agent of the licensee, and the servant or agent may be punished accordingly.

(2) If an offence under this Act is committed on licensed premises or on premises approved for the storage of liquor by a servant or agent of the licensee, then the licensee shall also be deemed to have committed such offence unless he proves both that he neither abetted nor consented to the commission of the offence and that he had taken all reasonable steps to prevent the commission thereof.

[s. 90]

[PCh77s92]92. Penalty for offences

Any person convicted of an offence under this Act, shall, unless some other punishment is prescribed, be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment

and shall, in the case of a second or any subsequent conviction, be liable to a fine not exceeding four thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

[s. 91]

[PCh77s93]93. Evidence of sale or consumption and burden of proof

(1) In proving the supply, sale or consumption of intoxicating liquor for the purpose of any proceedings relative to any offence under this Act, it shall not be necessary to show that any money actually passed or any intoxicating liquor was actually supplied or consumed, if the court hearing the case is satisfied that a transaction in the nature of a sale actually took place, or that any supply or consumption of intoxicating liquor was about to take place.

(2) Proof of consumption or intended consumption of intoxicating liquor on licensed premises by some person other than the occupier of, or a servant employed on, the premises, shall be prima facie evidence that the liquor was sold by the licensee to that person.

(3) In any proceedings under this Act relating to the manufacture or sale of intoxicating liquor the burden of proving that the manufacture or sale was lawful shall be on the person alleging the same.

[s. 92]

[PCh77s94]94. Evidence of issue of licence, etc.

In any proceedings under this Act, a certificate purporting to be signed by the chairman of a licensing authority shall be sufficient evidence of the issue of a licence, permit, order, approval, or consent, and of the terms thereof.

[s. 93]

[PCh77s95]95. Power for certain authorities to manufacture or contract for manufacture of local liquor

(1) A local authority which is by its instrument authorised to engage in trade may, with the approval of the Minister—

- (a) manufacture local liquor on its own account;
- (b) enter into a contract with any person for the manufacture of local liquor by such person and for its sale to the authority; and
- (c) sell any local liquor so manufactured or contracted for.

(2) No licence shall be required under this Act for the manufacture or sale of local liquor by a local authority under the provisions of subsection (1) of this section.

[s. 94]

[PCh77s96]96. Manufacture of local liquor

Where a contract is entered into by any person (in this section referred to as the brewer) in pursuance of the provisions of subsection (1) of section 95, the following provisions shall apply—

- (a) no building, room, place or item of plant on which the brewer has made entry under section 16 of the Excise (Management and Tariff) Act *, for the purpose of

the manufacture of beer or any spirits, other than local liquor, shall be used by him for the manufacture of local liquor;

(b) any police officer, medical officer of health, health inspector or administrative officer shall at all reasonable times be entitled to enter and inspect the premises in which the local liquor is manufactured for the purpose of ensuring that proper standards of cleanliness are maintained, and the brewer shall comply with any directions which may be given by the licensing authority for that purpose.

[s. 95]

[PCh77s97]97. Grant of monopolies

(1) The Minister may, by order in the Gazette, confer on a local authority which is by its instrument authorised to engage in trade or on any other person the exclusive right to manufacture or sell local liquor or any type or types of local liquor which may be specified in the order within such area of Tanzania as may be specified in the order.

(2) Where an order under subsection (1) has been made then, so long as the order remains in force, no licence shall be granted under this Act permitting the manufacture or sale of the local liquor, or, if the order is made in respect of a specified type or types of local liquor, local liquor of that type or types, within the area specified in the order.

[s. 96]

[PCh77s98]98. Permits to manufacture local liquor for private consumption

(1) A licensing authority may give a permit subject to such conditions as it may think fit to impose, for the manufacture of a specified quantity and description of local

liquor on premises specified in the permit for private consumption by the owner and his friends.

(2) No liquor manufactured under the authority of a permit granted under subsection (1) shall be sold or, unless authorised by the permit, be removed from the premises on which it is manufactured.

[s. 97]

[PCh77s99]99. Establishment of Appeals Committees Act No. 12 of 1978 s. 5

(1) There is hereby established an Appeals Committee for every district in Tanzania.

(2) There is hereby established an Appeals Committee for every region in Tanzania.

(3) The provisions of the Second Schedule to this Act shall have effect as to the composition and proceedings of Appeals Committees for the districts and for the regions, and otherwise in relation to them.

[s. 98]

[PCh77s100]100. Minister to hear certain appeals Act No. 12 of 1978 s. 5

(1) Subject to subsection (2), the hear Minister shall hear and determine appeals made to him under section 42(3) and he may affirm, reverse or vary the decision of the licensing authority from which the appeal arose.

(2) The Minister may, by writing under his hand, delegate the power to hear and determine appeals under this section to such person or body of persons as he may deem fit.

[s. 98A]

[PCh77s101]101. Licensing authority may delegate its functions

(1) A licensing authority may, notwithstanding anything to the contrary contained in this Act, delegate any of its functions relating to licences and permits in respect of local liquors to the chairman or any member of the licensing authority or to any public officer.

(2) Where any function of a board is delegated to any person under the provisions of subsection (1), such person shall, in the exercise of such function, have all the powers which are vested in the licensing authority and the decision of such person shall, for all intents and purposes, be deemed to be the decision of the board.

[s. 99]

[PCh77s102]102. Regulations

The Minister may make regulations for the better carrying out of the provisions and purposes of this act, and without prejudice to the generality of the foregoing may make regulations—

- (a) regulating the procedure of a licensing authority;
- (b) prescribing the conditions which may be attached to any licence;
- (c) prescribing the form of application for any licence;
- (d) prescribing the fees to be charged for local liquor licences and local liquor permits granted under this Act;
- (e) prescribing the form of any licence;

(f) prescribing anything which under the provisions of this Act may be prescribed.

[s. 100]

[PCh77s103]103. Fees for intoxicating liquor licences

(1) The fees payable for any intoxicating liquor licence and for the transfer or removal of any intoxicating liquor licence shall be those set out in the First Schedule to this Act:

Provided that where a minimum and maximum fee are prescribed the actual fee payable shall be that determined by the licensing authority.

(2) The Minister may by order cancel, vary or add to the First Schedule.

[s. 101]

[PCh77s104]104. Directions by Minister

The Minister may give a licensing authority directions of a general or specific character as to the exercise by the licensing authority of any of its functions under this Act, and the licensing authority shall give effect to the directions.

[s. 102]

[PCh77s105]105. Appeals

The provisions of the Criminal Procedure Act * relating to appeals from subordinate courts shall, in relation to convictions for offences under this Act, be read and construed as if subsection (2) of section 365 thereof had never been enacted.

[s. 103]

[PCh77s106]106. Repeal of R.L. Caps. 77 and 365

[Repeals the Local Liquor Act and the Intoxicating Liquors Ordinance.]

[s. 104]

[PCh77s107]107. Omitted

[Omitted under R.E. 1993: Transitional.]

[s. 105]

[PCh77s108]108. Omitted

[Omitted under R.E. 1993.]

[s. 106]

FIRST SCHEDULE

LICENCE FEES G.N. No. 169 of 1990

[Omitted under R.E. 1993.]

SECOND SCHEDULE

THE APPEALS COMMITTEE

(Section 98(2))

1. Composition

(1) An Appeals Committee for a region shall consist of—

- (a) the Regional Commissioner of the region who shall be the Chairman of the Committee;
- (b) the Regional Police Commander;
- (c) the Regional Medical Officer;

- (d) the Regional Security Officer;
- (e) the Regional Accountant, who shall also be the Secretary of the Committee; and
- (f) two other members appointed to the Committee by the Regional Development Committee (hereinafter referred to as "appointed members").

(2) An Appeals Committee for a district shall consist of—

- (a) the District Commissioner of the district, who shall be the Chairman of the Committee;
 - (b) the Officer-in-Charge of Police in the District;
 - (c) the District Medical Officer;
 - (d) the District Security Officer;
 - (e) the District Accountant, who shall also be the Secretary of the Committee;
- and
- (f) two other members appointed to the Committee by the District Council (hereinafter referred to as "appointed members").

2. Tenure of office of appointed members

(1) An appointed member shall, unless his appointment is sooner revoked by the authority appointing him, or he ceases to be a member in any other way, hold office for such period as may be specified in the instrument of his appointment or, if no period is specified in that instrument, for a period of three years from the date of his appointment and shall be eligible for reappointment.

(2) A Regional Committee and District Council may fill any casual vacancy occurring in the membership of appointed members, and may revoke the appointment of that member and appoint a replacement.

(3) An appointed member may resign by giving notice in writing to the authority appointing him of his intention to do so and shall, as from the date specified in the notice or, if the date is not specified, from the date when the authority appointing him receives the notice, cease to be a member of the Appeals Committee.

3. Meetings of the Committee

(1) An Appeals Committee shall meet at such times as may be necessary or expedient for the transaction of its business and all meetings shall be convened by the Chairman or, on the direction of the Chairman, by the Secretary, who shall appoint a suitable time, place and date for the holding of each meeting.

(2) The Chairman shall preside at all meetings of an Appeals Committee and, in his absence, the members present at the meeting shall elect one of their number to preside at that meeting.

4. Quorum and voting at meetings

(1) At any meeting of an Appeals Committee, the Secretary and not less than three other members of the Appeals Committee shall constitute a quorum.

(2) A decision of the majority of the members present and voting at a meeting of an Appeals Committee shall be deemed to be a decision of the Appeals Committee.

(3) Every member of an Appeals Committee shall have one vote and in the event of an equality of votes the Chairman of the meeting shall have a second or casting vote in addition to his deliberative vote.

5. Minutes of proceedings

(1) The details of all business conducted or transacted at a meeting of an Appeals Committee shall be entered by the Secretary in a minute book kept by the Appeals Committee for that purpose.

(2) The minutes of the proceedings of each meeting of an Appeals Committee shall be read and confirmed or amended and confirmed, as the case may be, and be signed by the Chairman of the meeting at the same time or the next meeting of the Appeals Committee and any minutes purporting to be signed shall, in the absence of proof of error, be deemed to be a correct record of the meeting of which they purport to be the minutes.

6. Vacancies, etc., not to invalidate proceedings

Subject to paragraph 4 with regard to a quorum, an Appeals Committee may act notwithstanding any vacancy in its membership and none of its acts or proceedings shall be invalid by reason only of some defect in the appointment of a member or a person who purports to be a member.

7. Committee may regulate own proceedings

Subject to the provisions of this Act, the Committee may regulate its own proceedings in any manner it thinks fit.