

Chapter 312.
Liquor (Licensing) Act 1963.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 312.

Liquor (Licensing) Act 1963.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Liquor (Licensing) Act 1963,

Being an Act relating to the sale, supply and disposal of fermented and spirituous liquor, and for related purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

(1) In this Act, unless the contrary intention appears—

“**Annual Sitting**”, in relation to the Commission, means an Annual Sitting of the Commission provided for by Section 13(1);

“**authority**” means an authority granted under Section 38, 42(6) or 88;

“**bar**” means a counter over which liquor is served to a person for immediate consumption, but does not include a service counter;

“**bar-room**” means a room in which liquor is served over a bar;

“**bona fide traveller**”, in relation to any licensed premises, means a person who—

- (a) resides at least 25 km from the licensed premises and, where the licensed premises are situated within a town, outside the boundaries of the town, the distance being calculated by the shortest, reasonable practicable route; and
- (b) has, within the period of 12 hours before the time of his arrival at the licensed premises, travelled from a place at least 25 km from them, the distance being calculated by the shortest, reasonable practicable route; and
- (c) has not, since the time of his arrival, been supplied with more than a reasonable quantity of liquor;

- “**booth licence**” means a licence granted in accordance with Division III.5;
- “**bottle-shop licence**” means a shop licence granted in accordance with Division III.8;
- “**cabaret permit**” means a permit granted in accordance with Section 80;
- “**canteen**” means a canteen established in accordance with Section 74;
- “**canteen licence**” means a licence granted in accordance with Division III.11;
- “**certificate**” means a certificate granted under Section 39(2) or 41(3);
- “**the Chief Licensing Commissioner**” means the Chief Licensing Commissioner appointed under Section 5(2)(a);
- “**club licence**” means a licence granted in accordance with Division III.7;
- “**the Commission**” means the Liquor Licensing Commission established by Section 5;
- “**dealer’s licence**” means a licence granted in accordance with Division III.3;
- “**dinner permit**” means a permit granted in accordance with Section 78;
- “**Health Inspector**” means a Health Inspector appointed under the *Public Health Act 1973*;
- “**Inspector**” means a Licensing Inspector appointed under Section 18;
- “**the Inspector**”, in relation to licensed premises or premises or proposed premises in respect of which a licence is, or is intended to be, applied for, means an Inspector appointed under Section 18 for the Licensing District in which the premises or proposed premises are situated;
- “**interim licence**” means an interim licence granted under Section 41(9);
- “**licence**” means a licence granted under this Act;
- “**licensed premises**” means premises in respect of which a licence is in force;
- “**the Licensing Commissioner**” means the Licensing Commissioner appointed under Section 5(2)(a);
- “**Licensing District**” means a Licensing District declared under Section 4;
- “**limited hotel licence**” means a limited hotel licence granted in accordance with Division III.2;
- “**liquor**” means wine, spirits, ale, beer, porter, stout, cider, perry or any liquid containing alcohol ordinarily used, or fit for use, as a beverage;
- “**liquor storeroom**” means a room or other place on licensed premises in which liquor is stored or kept, whether regularly, occasionally or for special purposes only;
- “**lodger**”, in relation to any licensed premises, means—
- (a) a regular resident in the licensed premises; or

- (b) a person resident in the licensed premises at the time in question;
- “**meal**”, in relation to any licensed premises, means a *bona fide* meal served in the dining room or other part of the premises specified in the licence for the purposes of this definition;
- “**occasional licence**” means a licence granted in accordance with Division III.10;
- “**owner**”, in relation to any licensed premises, means—
- (a) the person for the time being entitled to receive—
- (i) on his own account; or
- (ii) in trust for some other person; or
- (iii) as mortgagee or other encumbrancer in possession, the rent of the premises; or
- (b) the attorney of any such person;
- “**packet licence**” means a licence granted in accordance with Division III.6;
- “**permit**” means a supper permit, dinner permit, cabaret permit or special permit;
- “**prohibited hours**”, in relation to a licence, a licensee or premises the subject of a licence, means hours other than—
- (a) trading hours; and
- (b) where liquor may be served under this Act outside trading hours in certain circumstances or to certain persons, in relation to those circumstances or persons the hours during which liquor may be served;
- “**proof spirit**” means spirit of a strength equal to that of pure ethyl alcohol compounded with distilled water so that the resultant mixture, at a temperature of 15.55°C, has a specific gravity of 0.91976 as compared with distilled water at the same temperature;
- “**publican**” means the holder of a publican’s licence;
- “**publican’s licence**” means a publican’s licence granted in accordance with Division III.2;
- “**the regulations**” means any regulations made under this Act;
- “**restaurant licence**” means a licence granted in accordance with Division III.9;
- “**sell**” includes exchange or barter;
- “**service counter**” means a counter or part of a counter approved by the Commission for the service of liquor to the licensee or his agent, manager, or servant for the supply to persons seated, otherwise than at the counter, in a dining room, lounge, sitting room, beer garden or

similar place on licensed premises, but only while the counter is being used exclusively for that purpose;

“**sitting**”, in relation to the Commission, means an Annual Sitting or Special Sitting of the Commission;

“**special permit**” means a permit granted in accordance with Section 79;

“**Special Sitting**”, in relation to the Commission, means a Special Sitting of the Commission provided for by Section 13(2);

“**storekeeper’s licence**” means a licence granted in accordance with Division III.4;

“**supper permit**” means a permit granted in accordance with Section 77;

“**tavern-keeper**” means the holder of a tavern licence;

“**tavern licence**” means a tavern licence granted in accordance with Division III.2;

“**this Act**” includes the regulations;

“**trading hours**”, in relation to a licence or a holder of or premises the subject of a licence, means the hours prescribed or permitted for the sale of liquor under that licence;

“**vessel**” includes all vessels used in navigation by water.

(2) For the purposes of this Act, the supply of liquor by or in a club to a member of club—

- (a) for monetary consideration; and
- (b) with the intention that the liquor should become the property of that member to the exclusion of other members,

shall be deemed to be a sale of the liquor.

2. APPLICATION.

¹(1) The provisions of this Act relating to the sale, keeping or consumption of liquor do not apply to—

- (a) the sale, keeping or consumption of a beverage usually considered non-intoxicating or containing less than 2% of proof spirit; or
- (b) the sale or keeping of spirituous or distilled perfume in good faith as perfumery; or
- (c) the sale, keeping or consumption of liquor simply as a medicine or for medicinal purposes by, or under the direction of, a medical practitioner; or

¹ Section 2 amended by No. 7 of 1984.

- (d) the administration, dispensing, selling or keeping of liquor for medicinal purposes only by a pharmacist or other person authorized by law for the purpose, or the consumption for those purposes of any such liquor; or
- (e) the supply of liquor without recompense or remuneration where the supplier *bona fide* and reasonably believes that there is an urgent cause or necessity and the liquor is given solely and purely for medicinal purposes; or
- (f) with the approval of the Commission, the sale by auction by an auctioneer licensed under the *Auctioneers Act 1952*, selling in good faith, in course of his business, of liquor on account of another person; or
- (g) the sale, disposal or consumption of liquor on an aircraft in flight; or
- (h) the sale of liquor taken in execution, forfeited, seized or sold under a law; or
- (i) any sale, keeping or consumption of liquor that is lawful under any other Act; or
- (j) the sale, disposal or consumption of liquor on or within the precincts of the Parliament.

(2) The burden of proof of a matter referred to in Subsection (1) is on the person alleging it.

(3) For the purposes of Subsection (1)(f), the auctioneer shall—

- (a) give to the Commission not less than 48 hours written notice of his intention to sell the liquor, together with details of the liquor to be sold; and
- (b) as soon as practicable after the sale, notify the Commission of—
 - (i) the details of the liquor sold; and
 - (ii) the persons to whom it was sold.

3. EXEMPTION OF CERTAIN CANTEENS, ETC.

(1) Subject to Subsection (4), this Act does not require the holding of a licence or permit for—

- (a) the keeping; or
- (b) the supply, by sale or otherwise, to a person—
 - (i) who is a member of the Defence Force or of the naval, military or air forces of a part of the Queen's dominions; or
 - (ii) who is employed in a Defence Force installation; or
 - (iii) who is employed by or in the Department of Defence; or
- (c) the supply, at the expense of such a person, to a guest of that person; or
- (d) the permitting of the consumption,

of liquor at a canteen or club established, conducted, maintained or operated under the *Defence Act 1974*, if the liquor is the property of the State or of such a person or any such persons.

(2) Subject to Subsection (4), this Act does not require the holding of a licence or permit for—

- (a) the keeping; or
- (b) the supply, by sale or otherwise, to a person who—
 - (i) is a member of the Police Force; or
 - (ii) is employed in a police station or an institution conducted and controlled by the Police Force; or
- (c) the supply, at the expense of such a person, to a guest of that person; or
- (d) the permitting of the consumption,

of liquor at a canteen or club approved by the Commissioner of Police that is established, conducted, maintained or operated by the Police Force or by a member or members of the Police Force, if the liquor is the property of the State or of the member or members.

(3) Subject to Subsection (4), this Act does not require the holding of a licence or permit for—

- (a) the keeping; or
- (b) the supply, by sale or otherwise, to a person (other than a detainee)—
 - (i) who is a correctional officer or assistant correctional officer within the meaning of the *Correctional Service Act 1995*; or
 - (ii) who is employed in a correctional institution conducted and controlled by the Correctional Services Branch; or
- (c) the supply, at the expense of such a person, to a guest of that person; or
- (d) the permitting of the consumption,

of liquor at a canteen or club approved by the Commissioner of Correctional Services that is established, conducted, maintained or operated by the Correctional Services Branch, or by a member or members of the Branch, if the liquor is the property of the State or of the member or members.

(4) Sections 102, 114 and 115 apply to and in respect of a canteen or club referred to in Subsection (1), (2) or (3) as though the person in charge of the canteen or club were a licensee.

PART II. – ADMINISTRATION.

4. LICENSING DISTRICTS.

The Minister may, by notice in the National Gazette, declare a part of the country to be a Licensing District for the purposes of this Act.

5. THE LIQUOR LICENSING COMMISSION.

²(1) A Liquor Licensing Commission is hereby established.

(2) The Liquor Licensing Commission shall consist of a Chief Licensing Commissioner.

6. CONDITIONS OF SERVICE OF THE CHIEF LICENSING COMMISSIONER.

³(1) Subject to the *Salaries and Conditions Monitoring Committee Act 1988*, the terms and conditions of the Chief Licensing Commission are as determined by the Minister responsible for Public Service matters.

(2) Where the Chief Licensing Commissioner was, immediately before the date of his appointment under this Act, an officer of the Public Service, his service as the Chief Licensing Commissioner shall, for the purposes of determining his existing and accruing rights, be counted as service in the Public Service.

(3) In Subsection (2), “**existing and accruing rights**” means rights in respect of—

- (a) leave of absence on the ground of illness; and
- (b) furlough or pay in lieu (including pay to dependants or personal representatives on the death of the officer).

7⁴. [REPEALED.]

8. SITTINGS OF COMMISSION.

(1) Subject to this Act, sittings of the Commission shall be held in each Licensing District at such times and places as are appointed by the Chief Licensing Commissioner.

(2) Subject to this Act, the procedure to be followed at a meeting of the Commission is as determined by the Commission.

² Section 5 amended by No. 26 of 1982, s1.

³ Section 6 replaced by No. 26 of 1982, s2.

⁴ Section 7 repealed by No. 26 of 1982, s3.

9 - 10⁵. [REPEALED.]**11. APPEALS.**

A person aggrieved by a decision, order, direction or requirement of the Commission under this Act may appeal to the National Court, the decision of which is final.

12. JURISDICTION OF COMMISSION.

(1) Subject to this Act, the Commission has jurisdiction to hear and determine all cases or matters arising in or concerning—

- (a) the grant or refusal of licences, certificates, authorities or permits; and
- (b) the grant or refusal of the renewal, transfer or removal of a licence; and
- (c) the cancellation or suspension of a certificate or licence; and
- (d) as required or permitted by this Act, the fixing of hours for trading under, or the conditions of, a licence; and
- (e) the disqualification of licensed persons or licensed premises; and
- (f) applications for rehearing under Section 15.

(2) Subject to this Act, the *District Courts Act 1963*, with the necessary modifications applies, as far as practicable, to the proceedings of the Commission.

13. ANNUAL AND SPECIAL SITTINGS.

(1) Annual Sittings shall be held once in every 12 months by the Commission in each Licensing District.

(2) Special Sittings may be held by the Commission at any time.

(3) Subject to this Act, applications shall be made at the Annual Sitting for the renewal of all licences in force, and for the grant of new licences other than booth licences.

(4) With the consent of the Commission, applications for new licences may also be made at any Special Sitting.

14. ADJOURNMENT OF HEARING.

The Commission may, on such terms (if any) as to costs or otherwise as it determines, adjourn, from time to time, the hearing or further hearing of an application or other matter to a time and place to be appointed by it.

⁵ Section 6 replaced by No. 26 of 1982, s2.

15. REHEARING.

(1) A person aggrieved by a decision, order, direction or requirement of the Commission under this Act may apply for a rehearing, and if it is shown that—

- (a) new evidence is available that could not have been previously submitted; or
- (b) the decision was erroneous in law; or
- (c) a rehearing would be in the public interest,

the Commission shall rehear the cause or matter.

(2) A person affected by a rehearing has a right to be heard in the proceedings.

(3) Notice of an application under this section shall be given to—

- (a) the Commission; and
- (b) any person to whom the Commission, in writing, directs notice to be given,

within 40 days after the determination objected to.

(4) The fee for setting down an application under this section is as prescribed.

16. RECORDS, ETC.

(1) The Commission shall—

- (a) keep, or cause to be kept, registers of—
 - (i) all applications, licences, certificates, authorities and permits granted by it; and
 - (ii) all cancellations, suspensions and disqualifications under this Act; and
- (b) keep, or cause to be kept, such records as are prescribed or as it thinks necessary; and
- (c) issue, or cause to be issued, licences, renewals of licences, certificates, authorities and permits granted or authorized by it; and
- (d) publish, or cause to be published, in the National Gazette lists of—
 - (i) all applications for the grant, renewal, removal or transfer of licences (other than booth licences and occasional licences) to be heard at any Annual or Special Sitting; and
 - (ii) the results of applications for the grant, renewal, removal or transfer of licences; and
 - (iii) such other matters as are prescribed or as it thinks desirable; and
- (e) give, or cause to be given, such notices, and perform, or cause to be performed, such other duties and functions, as are necessary or desirable to be given or performed for the purposes of this Act.

(2) A licence, renewal of licence, certificate, authority or permit is of no effect until any fee payable has been paid to the Commission or to an officer nominated by it.

17. CHIEF LICENSING INSPECTOR.

(1) Subject to the *Public Services (Management) Act 1995*, there shall be a Chief Licensing Inspector.

(2) The Chief Licensing Inspector has and may exercise all the powers of an Inspector in any part of the country.

18. LICENSING INSPECTORS.

(1) The Minister may, by notice in the National Gazette, appoint an officer to be a Licensing Inspector for a Licensing District specified in the notice.

(2) An Inspector has and may exercise within the Licensing District for which he has been appointed the powers and authorities conferred on him by this Act.

19. GENERAL DUTY OF CHIEF LICENSING INSPECTOR AND LICENSING INSPECTORS.

The Chief Licensing Inspector and the Inspectors shall—

- (a) use all proper vigilance and take all lawful means to obtain compliance with this Act; and
- (b) report to the Commission as required by this Act and as directed by the Commission.

20. DUTIES OF CHIEF LICENSING INSPECTOR.

In addition to his other duties and responsibilities under this Act, the Chief Licensing Inspector shall—

- (a) inspect, or cause to be inspected on his behalf, all premises the subject of a publican's licence, limited hotel licence, tavern licence, bottle-shop licence, club licence, restaurant licence or dealer's licence, and all canteens, at least once in each year; and
- (b) when directed by the Chief Licensing Commissioner, inspect any premises the subject of a licence, certificate, permit or application.

21. DUTIES OF INSPECTORS.

In addition to his other duties and responsibilities under this Act, an Inspector shall—

- (a) regularly, and as directed by the Chief Licensing Inspector, inspect all licensed premises within the Licensing District for which he has been appointed; and

- (b) in June and January in every year and at such other times as are directed by the Commission, furnish a report, in the prescribed form and giving the prescribed particulars required by the Commission, to the Commission and to the Chief Licensing Inspector—
 - (i) on the manner in which the licensed premises inspected under this section are conducted and managed; and
 - (ii) in particular in regard to the food supplied, and the furniture and accommodation provided, in premises the subject of a publican's licence, limited hotel licence, tavern licence or canteen licence; and
- (c) forward to the Commission and to the Chief Licensing Inspector particulars of all convictions under any law of a licensee or of an employer who has established a canteen.

22. ASSISTANT LICENSING INSPECTORS.

(1) The Minister may, by notice in the National Gazette, appoint officers to be Assistant Licensing Inspectors for parts of Licensing Districts.

(2) Subject to any directions given by the Chief Licensing Inspector, an Assistant Licensing Inspector has, and shall exercise and perform, all the powers, functions, duties and responsibilities of an Inspector under this Act in relation to the part of a Licensing District for which he is appointed.

(3) In relation to a part of a Licensing District for which an Assistant Licensing Inspector has been appointed, a reference in this Act to an Inspector shall be read as including a reference to the Assistant Licensing Inspector.

23. SECRETARY AND CLERKS TO THE COMMISSION.

(1) The Minister may, by notice in the National Gazette, appoint an officer to be the Secretary to the Commission.

(2) The Minister may, by notice in the National Gazette, appoint an officer in each Licensing District to be the clerk to the Commission for that District.

(3) The Secretary to the Commission and a clerk to the Commission has and shall perform such duties and functions as are prescribed or as are directed by the Commission.

24. ANNUAL REPORTS.

(1) The Chief Licensing Commissioner shall, as soon as practicable after 31 December in each year, furnish to the Minister a report, in respect of the 12 months immediately preceding that day, on the operation of the licensing system in the country generally, and in particular on—

- (a) the administration of this Act; and
- (b) any changes in administration that he thinks desirable; and

- (c) the activities of the Chief Licensing Inspector and the Inspectors; and
- (d) the activities of the Police Force in relation to this Act; and
- (e) any amendments to legislation that he thinks desirable to make the system of licensing more effective.

(2) As soon as practicable after receipt of a report under Subsection (1), the Minister shall cause the report to be presented to the Parliament.

PART III. – LICENCES AND PERMITS.

Division 1.

General.

25. CLASSES OF LICENCES AND PERMITS.

(1) The following classes of licences may be granted under this Act:–

- (a) publican's licences;
- (b) tavern licences;
- (c) limited hotel licences;
- (d) dealer's licences;
- (e) storekeeper's licences;
- (f) booth licences;
- (g) bottle-shop licences;
- (h) packet licences;
- (i) club licences;
- (j) restaurant licences;
- (k) occasional licences;
- (l) canteen licences.

(2) The following classes of permits may be granted under this Act:–

- (a) supper permits;
- (b) dinner permits;
- (c) special permits.

26. LICENSED, ETC., PREMISES.

A licence, certificate, authority or permit granted under this Act relates only to the premises or the part of any premises specified in it.

27. RESTRICTED AREAS.

The Minister may by notice in the National Gazette, limit or restrict–

- (a) the number or class of licences that may be granted; or
- (b) the sale or supply of liquor under a licence or class of licence,

in an area specified in the notice.

28. RESTRICTION ON HOLDING OF LICENCES.

The holder of a publican's licence, limited hotel licence, tavern licence or restaurant licence, or a manager appointed under or for the purposes of this Act for premises the subject of a publican's licence, limited hotel licence or tavern licence, shall not have a beneficial interest in any other licence within the same Licensing District unless the interest is disclosed to and approved by the Commission.

29. GRANT, ETC., OF LICENCES, ETC.

(1) Subject to this Act, the Commission may grant or refuse an application for the grant, renewal, transfer or removal of a licence or the grant of a certificate, authority or permit.

(2) The grant, renewal, transfer or removal of a licence, or the grant of a certificate, authority or permit, may, if the Commission thinks fit, be by endorsement on the application.

(3) Subject to this Act, a licence (other than a booth licence), certificate or authority—

- (a) takes effect from the day of grant or such later date as is specified in the licence; and
- (b) if not cancelled, suspended or become void—continues in force until the last day of the month after the month in which the Annual Sitting in the Licensing District in which the licensed premises are situated; and
- (c) may be renewed from year to year on application to the Commission under this Act.

(4) The grant of a licence, certificate or authority does not confer on the grantee, or a person claiming through or under the grantee, a right to a renewal.

(5) Compensation is not payable by the State to any person on account of the suspension, cancellation or non-renewal of a licence, certificate, authority or permit.

(6) If a licence, certificate or authority is lost or cannot for any reason be produced, the Commission may, on application and on payment of the prescribed fee, authorize the issue of a duplicate licence, certificate or authority.

(7) Where a licence is issued for a period of less than one year, such proportional amount only of the licence fee as is determined by the Commission is payable by the licensee.

30. PROVISIONAL GRANTS.

(1) Where, on an application for the grant, renewal, transfer or removal of a licence or the grant of a certificate, authority or permit—

- (a) the prescribed notice (if any) has not been given; or

- (b) the Commission is of opinion that the application should not be granted until certain conditions are complied with, but that subject to such compliance the application should be granted,

the Commission may grant the application subject—

- (c) in a case referred to in Paragraph (a)—to the requisite notice being given and no objections to the grant being received within such time as the Commission determines; or
- (d) in any case—to compliance with such conditions as are prescribed or the Commission thinks proper.

(2) In granting an application provisionally under this section, the Commission may—

- (a) require the application to be again referred to it or to the Chief Licensing Commissioner or the Licensing Commissioner for confirmation; or
- (b) order that the grant be confirmed on a certificate by an Inspector that the conditions of the grant have been complied with.

(3) The confirmation of a provisional grant or a certificate under Subsection (2) may be by endorsement on the application or on the licence, certificate, authority or permit, as the case may be.

31. APPLICATIONS FOR LICENCES, ETC.

(1) Except where by this Act—

- (a) a notice is not required; or
- (b) other provisions as to notice are prescribed,

at least eight weeks before the date on which an application under this Act is to be heard written notice of the proposed application shall be given to—

- (c) the Commission; or
- (d) the Inspector,

setting out the nature of the application and the premises to which it relates.

(2) Subject to Section 30, but notwithstanding any other provision of this Act, the Commission may in any case grant leave for an application to be made without notice.

(3) An application under this Act shall—

- (a) be in the prescribed form; and
- (b) specify—
 - (i) the nature of the application; and
 - (ii) the premises to which it relates; and

- (iii) such other details as are prescribed; and
 - (iv) in the case of an application for the grant or renewal of a licence, details of any other licence in which the applicant has a beneficial interest; and
- (c) be verified by the statutory declaration of the applicant, his lawyer or his agent.

(4) Where notice of an application is required under this Act, the application shall be filed with the Commission as soon as practicable after the giving of the notice.

(5) As soon as practicable after the receipt of a notice under Subsection (1), the Commission shall—

- (a) cause a copy of the notice—
 - (i) to be fixed to a notice board at the entrance to its office in the Licensing District in which the premises the subject of the application are situated; and
 - (ii) to be kept there until the hearing of the application; and
- (b) publish the notice in—
 - (i) the National Gazette; and
 - (ii) a newspaper circulating in the Licensing District in which the premises the subject of the application are situated,

at least 14 days before the date on which the application is to be heard; and

- (c) forward copies of the notice to the Local-level Government (if any) and the Local-level Government Special Purpose Authority (if any) for the area in which the premises are situated; and
- (d) ensure that a copy of the notice is prominently displayed on or near the premises the subject of the application and in such a way as clearly to identify those premises; and
- (e) take such other steps as it thinks desirable to bring the application to the notice of persons likely to be concerned.

(6) In the case of the renewal of a licence, unless the licensee has previously given notice to the Commission of his intention not to have the licence renewed he shall be deemed to have given notice under Subsection (1), and the Commission shall proceed accordingly.

32. PLANS OF LIQUOR STOREROOMS.

(1) An application for the grant of a licence (other than a booth licence, packet licence or occasional licence) shall be accompanied by a plan of every bar-room, liquor storeroom, bottle-shop or other place used or intended to be used for the keeping or storage of liquor for sale or other disposition under the licence.

(2) A plan referred to in Subsection (1) shall show—

- (a) every bar and service counter in the premises; and
- (b) every door or other opening into a bar-room, liquor storeroom, bottle-shop or other place specified in Subsection (1); and
- (c) every permanent cupboard or other receptacle in which it is intended to keep or store liquor,

and the applicant shall also give details of—

- (d) the manner in which each such room, place, door, opening, cupboard or receptacle may be closed and fastened; and
- (e) any other means of safe-keeping liquor.

33. ADDITIONAL EVIDENCE.

(1) An application for the grant of a licence (other than, subject to Subsection (3), a booth licence, packet licence or occasional licence) in respect of premises situated at a distance of more than 10 km (calculated by the shortest, reasonably practicable route) from a police station shall be accompanied by a statutory declaration by the applicant or his agent, manager or servant, giving particulars of—

- (a) the residence of the applicant or the person who is to be in charge of the premises; and
- (b) its distance from the premises; and
- (c) the precautions to be taken to ensure—
 - (i) the security and safe-keeping of the premises, and of the liquor stored in or at them; and
 - (ii) the orderly conduct of the premises and of the business conducted or to be conducted in or at them.

(2) An application for the grant of a licence (other than, subject to Subsection (3), a booth licence, packet licence or occasional licence) in respect of premises situated at a distance of more than 30 km (calculated by the shortest, reasonably practicable route) from any other licensed premises shall be accompanied by a statutory declaration by the applicant or his agent, manager or servant, setting out—

- (a) the names of persons who support the grant of a licence of the type applied for in the area; and
- (b) where the application is supported by a petition or similar document—that the persons who have signed the petition are known to the declarant as *bona fide* residents of the area.

(3) A declaration referred to in this section may be required by the Commission in connection with any application.

34. INQUIRIES, ETC., INTO APPLICATIONS.

(1) Subject to this section, the Inspector shall inquire as to—

- (a) the character; and
- (b) the fitness; and
- (c) the capacity to carry on the business the subject of an application or a licence,

of—

- (d) every manager appointed under this Act; and
- (e) every applicant for the grant or renewal of a licence; and
- (f) in the case of an application for the transfer of a licence—the proposed transferee,

and shall report on the inquiry to the Commission at or before the hearing.

(2) Where a report under Subsection (1) is adverse to the manager, applicant or proposed transferee, the Inspector shall, before the hearing, furnish a copy of the report to—

- (a) the applicant and the manager; or
- (b) the applicant; or
- (c) the proposed transferee,

as the case may be.

(3) Notwithstanding Subsection (1), it is not necessary for the Inspector to furnish a report under that subsection in the case of an application for a booth licence or occasional licence unless—

- (a) the report is adverse; or
- (b) the Commission otherwise directs.

(4) In addition to any other matter that it thinks relevant in considering an application under this Act, the Commission shall take into account—

- (a) any report made by the Inspector; and
- (b) the demand or need for the licence, certificate, authority or permit applied for; and
- (c) any objections made to the grant; and
- (d) the fitness of the applicant and his manager (if any) from the point of view of character and ability to control and manage the proposed licensed premises under the type of licence applied for; and
- (e) the facilities for effective supervision in the area; and

- (f) in the case of an application for a licence, especially in an area in which no licence has previously been granted, the wishes of the people in the area, ascertained in accordance with Section 35; and
- (g) the effect or likely effect of the grant of the licence on the business of any other licensee.

(5) The Commission shall not grant an application for a publican's licence, limited hotel licence, tavern licence, storekeeper's licence or club licence unless it has first given to any Local-level Government in whose area the premises the subject of the application are located a reasonable opportunity of presenting to it a report expressing the wishes of the people in the Local-level Government area.

35. LOCAL ADVISORY COMMITTEES.

(1) For the purposes of this section, “**area**” means the area within a radius of 16.09km of the place in respect of which an application has been made.

(2) When the Commission is required under Section 34(4)(f) to consider the wishes of the people in the area to which an application relates, it shall refer the matter to the Local Advisory Committee for that area.

(3) The Local Advisory Committee for an area shall consist of—

- (a) member of the Local-level Government for the area appointed by that Local-level Government or if no Local-level Government exists—a person appointed by the District Officer for the area; and
- (b) a person resident within the area appointed—
 - (i) by the Local-level Government for the area; or
 - (ii) if no Local-level Government exists—by the District Officer for the area; and
- (c) the member of the Parliament for the open electorate in which the area is situated, or if that member is unable or unwilling to act as a member of the Committee—
 - (i) the member of the Parliament for the provincial electorate in which the area is situated; or
 - (ii) if the member for the provincial electorate is unable or unwilling to act as a member of the Committee, a person appointed by the Provincial Administrator of the Province in which the area is situated.

(4) A member of the Parliament shall not act as a member of the Local Advisory Committee in accordance with Subsection (3)(c) if he has a pecuniary interest in the application referred to the Committee.

36. RENEWALS.

(1) The Commission may refuse to renew a licence—

- (a) because of breaches under the licence of the provisions of this Act; or
- (b) for any other cause thought by it to be sufficient and satisfactory.

(2) At the request of a licensee, the Commission may, instead of renewing his licence, grant to him a licence of a different class.

(3) For the purposes of Sections 31, 32 and 40, a request under Subsection (2) shall be deemed to be an application for a new licence.

(4) It is not necessary for the applicant for the renewal of a licence to attend the sitting personally unless—

- (a) he has received notice from the Inspector that the application is objected to; or
- (b) the Commission so directs; or
- (c) he has made a request under Subsection (2).

37. TRANSFERS.

(1) Subject to this Act, the Commission may transfer a publican's licence, limited hotel licence, tavern licence, dealer's licence, storekeeper's licence or restaurant licence from the holder to a person approved by the Commission, on the application jointly of the proposed transferee and—

- (a) if the licensee is in occupation of the licensed premises or joins in the application—the licensee; or
- (b) if the licensee no longer occupies or is entitled to occupy the premises and refuses to join in the application—the owner or the person legally in occupation or entitled to occupation of the licensed premises; or
- (c) the executor, administrator or other legal personal representative of a deceased licensee; or
- (d) the Public Curator or the committee of a licensee who is a person of unsound mind as that expression is used in the *Public Health Act 1973*; or
- (e) the official trustee or the trustee in insolvency of an insolvent licensee,

as the case may be.

(2) The Commission may transfer a bottle-shop licence only—

- (a) if the holder of the licence has had his other licence transferred under Subsection (1); and
- (b) to the same person to whom the other licence was transferred.

(3) The fee for a transfer under this section is as prescribed.

(4) The licence shall be transferred—

- (a) by endorsement on the licence; or

- (b) if the licence cannot be produced—by endorsement on a duplicate licence issued under this Act,

and the person named in the endorsement becomes for all purposes the licensee.

(5) Unless a licence has been held by the licensee for at least nine months, it shall not be transferred except for some special reason.

38. DEATH, ETC., OF LICENSEE.

(1) On the death, insolvency or unsoundness of mind of a licensee (other than the holder of a club licence)—

- (a) his executor, administrator or other legal personal representative; or
- (b) his widow or her widower or his or her next of kin (in the case of a deceased licensee); or
- (c) the Public Curator or his committee (in the case of a licensee who is a person of unsound mind); or
- (d) the official trustee or the trustee in insolvency (in the case of an insolvent licensee),

may apply at any time to the Commission for authority to carry on the business of the licensee, by himself or by a manager approved by the Commission, until—

- (e) the cancellation of the licence; or
- (f) a date to be fixed by the Commission; or
- (g) the transfer of the licence,

whichever first occurs.

(2) If the Commission grants an application under Subsection (1), the person authorized to carry on the business of the licensee shall, for the purposes of this Act, be deemed to be the licensee during the period for which the authority is in force.

(3) The fee for an authority under this section is as prescribed.

39. REMOVAL OF LICENCE.

(1) Where—

- (a) the holder of a licence (other than a booth, packet, club or canteen licence) is not bound by contract to maintain the licence on the premises licensed; or
- (b) the owner of the licensed premises (other than premises the subject of a booth, packet, club or canteen licence) consents in writing to the application,

and the licensee has the right of occupation of new premises, the Commission may, on the application of the licensee—

- (c) permit the removal of the licensed business to the new premises; and

- (d) amend the licence by substituting the new premises for those in the licence,

and the substituted premises become the licensed premises.

(2) Where in respect of an application under Subsection (1), new buildings or alterations or additions to existing buildings are required to provide the accommodation necessary for the requirements of the public—

- (a) the licensee may apply for a certificate authorizing the substitution of the new premises when completed; and
- (b) the Commission may grant the certificate on such terms and conditions as it thinks proper and specifies in the certificate.

(3) A licence shall not be amended under a certificate under Subsection (2) except on—

- (a) application by the licensee within the time limited in the certificate; and
- (b) a report from the Inspector that the specified conditions have been complied with.

(4) A certificate under Subsection (2) may be cancelled by virtue of Section 89.

(5) The fee for a certificate under Subsection (2) is as prescribed.

40. OBJECTIONS.

(1) Subject to Subsection (3), written notice of an objection to the grant, renewal, transfer or removal of a licence (other than a booth licence) specifying the grounds of the objection, shall be given to the Commission and to the applicant or his lawyer at least five clear days before the day on which the application is to be heard.

(2) Where the Commission thinks that there may be grounds of objection of which notice has not been given or may not have been given under Subsection (1), the Commission—

- (a) shall give written notice to the Inspector and the applicant or his lawyer, specifying the grounds of objection; and
- (b) shall not proceed to consider the objection until the applicant has been given a reasonable opportunity to answer it.

(3) Notwithstanding Subsection (1), the Commission may hear an objection made at the hearing of an application even if notice of it has not been given, but the applicant is then entitled to an adjournment of the hearing for such period as the Commission thinks proper.

(4) Without limiting the matters that the Commission may take into consideration or the grounds on which an objection may be made, an objection may be made on any of the following grounds:—

- (a) that this Act has not been complied with in relation to the application;

- (b) that the applicant, or in the case of an application for the transfer of a licence the proposed transferee, is unfit to hold a licence of the type concerned;
- (c) that the conditions provided under this Act in respect of the licence, or any of them, have not been complied with—
 - (i) by the licensee personally; or
 - (ii) with regard to the premises in respect of the licence concerned;
- (d) that in the case of an application for the renewal of a licence, the management of the licensed premises has not been satisfactory in respect of the matters specified in the objection;
- (e) that the demand or need for a licence of the type concerned does not warrant its grant or renewal in, or its removal to, the area concerned;
- (f) that the licence should not be granted, renewed or removed having regard to—
 - (i) the facilities for effective supervision in the area; or
 - (ii) the wishes of the people in the area;
- (g) that the licence should not be granted, renewed or removed, having regard to—
 - (i) the proximity of the premises or proposed premises to a place of public worship, a hospital or a school; or
 - (ii) the purposes for which any land in the vicinity is used or is intended to be used;
- (h) that, in the case of an application for a tavern licence, the proximity of the premises or proposed premises to premises the subject of a publican's licence would adversely affect the business of the publican;
- (i) that the premises or proposed premises do not or will not comply with this Act or any other law.

(5) Objections shall be heard and determined by the Commission.

(6) Subject to Subsection (7), where an objection is held to be frivolous the Commission may award costs, not exceeding K30.00 against the objector, and that sum may be recovered in the same manner as a sum of money ordered to be paid by an order of a District Court.

(7) Costs shall not be awarded where an objection is made by an Inspector or a Health Inspector.

41. CONDITIONAL CERTIFICATES AND INTERIM LICENCES FOR NEW PREMISES.

(1) In this section, “**licence to which this section applies**” means—

- (a) a publican's licence; or

- (b) a tavern licence; or
- (c) a limited hotel licence; or
- (d) a club licence; or
- (e) a bottle-shop licence.

(2) A person who desires to obtain a licence to which this section applies for premises—

- (a) proposed to be erected; or
- (b) not at the time completed or fit for occupation; or
- (c) already erected, but requiring additions or alterations to provide the accommodation proposed,

may—

- (d) give the prescribed notice; and
- (e) lodge the prescribed plan; and
- (f) make application for a certificate authorizing the issue of the licence on the completion or alteration of the premises,

within a period to be specified in the certificate.

(3) Subject to the provisions of this Act in respect of an application for a licence to which this section applies, the Commission may grant an application under Subsection (2) on such terms and conditions as it thinks proper and specifies in the certificate.

(4) A licence shall not be issued under a certificate under Subsection (3) until the Commission certifies in writing that the conditions specified in the certificate have been complied with.

(5) The Commission may, on application, extend the time for the completion of work specified in a certificate under Subsection (3) for a further period not exceeding four months.

(6) On the completion of the work, the applicant shall notify the Inspector.

(7) The Inspector shall report to the Commission on the progress and completion or non-completion of work specified in a certificate under Subsection (3) within the time limited by the certificate.

(8) If the conditions specified in a certificate under Subsection (3) are not complied with within—

- (a) the time limited by the certificate; or
- (b) any extended period allowed by the Commission,

the certificate has no further effect.

(9) Where—

- (a) a person has been granted a certificate under Subsection (3) in respect of a licence to which this section applies (other than a limited hotel licence); and
- (b) the premises the subject of the certificate have been completed to a stage where, in the opinion of the Commission, sufficient facilities exist for the selling, supplying and disposing of liquor under reasonable conditions,

he may apply to the Commission for a grant of an interim licence in respect of the premises.

(10) Subject to Subsection (11), an interim licence authorizes the licensee to sell, supply and dispose of liquor on the licensed premises in accordance with such conditions and restrictions as are imposed by the Commission and specified in the licence.

(11) An interim licence does not confer on the licensee any greater rights in connection with the sale, supply and disposal of liquor than the licensee would have if he were the holder of the relevant class of licence to which this section applies in respect of the premises to which the interim licence relates.

(12) An interim licence ceases to have any force or effect—

- (a) if a certificate under Subsection (3) ceases to have any further effect under Subsection (8) in respect of the premises to which the interim licence related; or
- (b) if a publican's licence, tavern licence, club licence or bottle-shop licence is issued in respect of those premises; or
- (c) if it is cancelled under Subsection (15).

(13) Subject to any conditions and restrictions imposed by the Commission, Division III.10 applies to and in relation to an interim licence as if that interim licence were a publican's licence or a tavern licence, club licence or bottle-shop licence, as the case may be.

(14) The holder of an interim licence who—

- (a) refuses or fails to comply with a condition or restriction imposed under the licence; or
- (b) sells, supplies or disposes of liquor from the premises the subject of the licence otherwise than in accordance with the licence,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(15) Where the holder of an interim licence is convicted of an offence against Subsection (14), the Commission may cancel the licence.

(16) The fee for a certificate under Subsection (3) or for an interim licence is as prescribed.

42. REBUILDING OF LICENSED PREMISES.

(1) For the purposes of this section, “**accommodation**” includes, in appropriate cases—

- (a) the provision of sitting rooms, dining rooms and bedrooms; and
- (b) the provision of facilities for the consumption of liquor at tables in lounges, gardens, under awnings or in the open air; and
- (c) the provision of additional furniture, fittings or equipment or the renovation or replacement of furniture, fittings or equipment; and
- (d) the provision of bath facilities, laundry or similar facilities and hot water services; and
- (e) the erection of garages for the accommodation of motor vehicles; and
- (f) the installation of a water storage system in cases where a water supply service is not available; and
- (g) the provision of additional closets, privies and other sanitary necessities; and
- (h) the provision, repair or restoration of fences or verandahs.

(2) If licensed premises—

- (a) become unfit for the purpose of the licence; or
- (b) no longer have the accommodation required by the public,

the owner, or the licensee with the consent of the owner, may apply to the Commission for permission to rebuild, alter or add to the premises or otherwise bring them into conformity with the requirements of the locality, and shall submit with the application plans showing the nature and extent of the alterations proposed.

(3) The Inspector may, by written notice, direct the owner or licensee to make an application under Subsection (2), and if the application is not made within 40 days after the service of the notice the Commission may, on application by the Inspector or a Health Inspector, suspend or refuse to renew the licence.

(4) Subject to this Act and to any law with respect to the erection of or alterations or additions to buildings, the Commission may—

- (a) grant an application under Subsection (2), subject to such conditions as to the time for completion and otherwise as it thinks fit; and
- (b) on application extend the time for completion.

(5) On proof that additional accommodation is required for the convenience of the public at, on or in any licensed premises, the Commission may at any sittings, after not less than 14 days’ notice to the owner and occupier, order the owner of the licensed premises to provide the accommodation within a reasonable time specified in the order.

(6) Pending the completion of the work the subject of an application under Subsection (2) or of an order under Subsection (5), the Commission may grant authority for the business to be—

- (a) suspended wholly or in part; or
- (b) carried on—
 - (i) in neighbouring premises; or
 - (ii) without the accommodation required under the licence,

and in that case the licence may be renewed or otherwise dealt with under this Act notwithstanding the temporary non-compliance with its conditions.

(7) An authority under Subsection (6) may be cancelled by virtue of Section 89.

(8) When use is made of neighbouring premises under an authority under Subsection (6), those premises shall be deemed to be included under the licence during that use.

43. PROVISION OF LICENSED PREMISES IN AREAS INSUFFICIENTLY SUPPLIED.

(1) In addition to any other powers conferred by this Act, where the Commission is satisfied that the provision (if any) of licensed premises in an area is insufficient to meet the reasonable requirements of the public, then, subject to Subsection (2) the Commission, of its own motion or on application made in the prescribed manner by the Chief Licensing Inspector or by any other person, may, by notice in—

- (a) the National Gazette; and
- (b) a newspaper circulating in the area,

and in such other manner as it thinks proper, call for applications for a licence of the class that it thinks to be required.

(2) Before calling for applications in accordance with Subsection (1), the Commission shall give notice of its intention to do so, and Sections 31 and 40, with the necessary modifications, apply to and in relation to such a notice as if it were a notice under Section 31(1).

(3) If any objections are received, the Commission shall consider the objections and may—

- (a) uphold an objection and refrain from calling for applications; or
- (b) dismiss the objections and—
 - (i) where—
 - (A) a licensee in the area is willing and able to supply the requirements of the public; and
 - (B) there appears to be no good reason why, in the public interest, he should not do so,

require or permit him to apply for an additional licence or for a licence of another type in exchange for the licence that he holds; or

- (ii) in any other case call for applications in accordance with Subsection (1).

44. REASONS FOR DECISIONS OF THE COMMISSION.

If requested by an interested person, the Commission shall give a written statement of its reasons for any decision, order, direction or requirement made or given by it under this Act.

45. DISCRETION OF COMMISSION.

This Act does not limit the discretion of the Commission—

- (a) to refuse the grant or renewal of a licence for a cause thought by the Commission to be sufficient and satisfactory; or
- (b) to cancel or suspend under Section 86, whether conditionally or otherwise, a licence.

46. EFFECT OF LICENCE IN RELATION TO OTHER LAWS.

(1) Subject to this section, this Act does not exempt any person or premises from the provisions of—

- (a) the *Building Act 1971*; or
- (b) the *Physical Planning Act 1989*; or
- (c) any law regulating sanitation, health or hygiene of persons, premises or things; or
- (d) any other law.

(2) A licensee under this Act shall be deemed to be the holder of a licence—

- (a) under the *Trading Act 1946*; and
- (b) the *Licences Act (T.N.G.) 1952*,

in relation to trading in liquor or other things customarily or reasonably sold or supplied by such a licensee.

(3) The holder of a publican's licence, limited hotel licence, tavern licence, club licence, restaurant licence or canteen licence shall be deemed to hold a licence under the *Food Sanitation Act 1991* for the premises in respect of which the first-mentioned licence is in force, and is exempt from the payment of a licence fee under that Act in respect of those premises.

(4) Notwithstanding anything in this Act or in any other Act referred to in this section, where a licensee who is deemed, by virtue of this section to hold a licence under any of those Acts—

- (a) would, if he actually held such a licence, have or be liable to have his licence forfeited or cancelled, the Commission may make such order under Section 82 or 86 as it thinks appropriate; or
- (b) in the case of a licensee who is so deemed to hold a licence under the *Food Sanitation Act 1991*, is convicted of an offence against that Act, the offence or contravention shall, for the purposes of Sections 82 and 86, be deemed to be an offence against this Act.

Division 2.

Publican's Licences, Limited Hotel Licences and Tavern Licences.

Subdivision A. – Effect of Licences, Trading Hours, etc.

47. PUBLICAN'S LICENCES.

(1) Subject to this Act, a publican's licence authorizes the licensee to sell, supply and dispose of liquor on the licensed premises—

- (a) during trading hours; and
- (b) between the hours of 12 noon and 2.30 p.m., and 6 p.m. and 10 p.m., of any day, as part of a meal; and
- (c) at any time to lodgers, or the guests of lodgers, or to *bona fide* travellers,

for consumption on the premises.

(2) Trading hours for premises the subject of a publican's licence are—

- (a) from 11 a.m. to 2 p.m. and from 4 p.m. to 8 p.m. of any day, other than Saturday, Sunday, Good Friday, Christmas Day or any prescribed day or part of a day; and
- (b) from 10 a.m. to 2 p.m. and from 4 p.m. to 8 p.m. on Saturday; and
- (c) from 11 a.m. to 1 p.m. and from 5 p.m. to 7 p.m. on Sunday; and
- (d) from 12 noon to 8 p.m. on Christmas Day, when it is not a Sunday.

(3) The annual fee for a publican's licence is as prescribed.

48. TAVERN LICENCES.

(1) Subject to this Act, a tavern licence authorizes the licensee to sell, supply and dispose of liquor on the licensed premises during such hours within the hours set out in Section 47(2) as are specified in the licence.

(2) The annual fee for a tavern licence is as prescribed.

49. LIMITED HOTEL LICENCES.

(1) Subject to this Act, a limited hotel licence authorizes the licensee to sell, supply and dispose of liquor on the licensed premises at any time to lodgers for consumption on those premises by the lodgers or guests of the lodgers.

(2) The annual fee for a limited hotel licence is as prescribed.

50. EXTENDED AND VARIED TRADING HOURS.

(1) In relation to a publican's licence or a tavern licence, the Commission may approve—

- (a) an extension of trading hours until not later than 12 midnight on not more than one day in any week; and
- (b) a variation of trading hours on not more than two other days in every week,

in a case where it is of opinion that a special need exists.

(2) A variation of trading hours approved under Subsection (1)(b) shall not authorize trading—

- (a) before 10 a.m.; or
- (b) after 11 p.m.; or
- (c) during more hours than are set out in Section 47(2) in relation to the day to which the variation relates.

(3) Any extended trading hours or variation of trading hours approved under Subsection (1) shall be specified in the licence.

(4) In approving extended trading hours or a variation of trading hours under Subsection (1), the Commission may direct that during the extended or varied trading hours outside the hours set out in Section 47 or 48, as the case may be, service—

- (a) be limited to such part of the licensed premises as it thinks proper; or
- (b) be by way of steward service only; or
- (c) be subject to such further or other conditions as it thinks proper.

Subdivision B. – Grant, Renewal, Conditions, etc.

51. LIMITATIONS ON GRANT OR RENEWAL OF PUBLICAN'S LICENCES AND LIMITED HOTEL LICENCES.

(1) For the purposes of this section, “**accommodation**” includes, in appropriate cases—

- (a) the provision of sitting rooms, dining rooms and bedrooms; and
- (b) the provision of facilities for the consumption of liquor at tables in lounges, gardens, under awnings or in the open air; and
- (c) the provision of additional furniture, fittings or equipment or the renovation or replacement of furniture, fittings or equipment; and
- (d) the provision of bath facilities, laundry or similar facilities and hot water services; and

- (e) the erection of garages for the accommodation of motor vehicles; and
- (f) the installation of a water storage system in cases where a water supply service is not available; and
- (g) the provision of additional closets, privies and other sanitary necessities; and
- (h) the provision, repair or restoration of fences or verandahs.

(2) A publican's licence or a limited hotel licence shall not be granted or renewed in respect of any premises unless the premises contain—

- (a) such accommodation as is prescribed for the area in which the premises are situated; and
- (b) such additional accommodation as the Commission requires in relation to any particular premises.

(3) Notwithstanding Subsection (2), a publican's licence or a limited hotel licence shall not be granted or renewed in respect of any premises unless—

- (a) an Inspector has examined the premises the subject of the proposed licence; and
- (b) the Inspector—
 - (i) has reported to the Commission that the premises are suitable for the use to which they are to be put; or
 - (ii) has specified the action necessary or desirable to make them suitable.

(4) A publican's licence or a limited hotel licence is subject to a condition that the licensee provide, to the satisfaction of the Commission, a safe or other means of safe-keeping for the valuables of lodgers.

(5) The Commission may include in a publican's licence a condition that, during such hours as are specified in the licence, the licensee provide such service to members of the public as is specified.

(6) Where practicable, the Commission shall include in a publican's licence a condition that no liquor other than ale, beer, porter, stout, cider and perry shall be sold, supplied or disposed of in that part of the premises commonly known as the public bar or in such other part of the premises as is specified in the licence.

(7) This section does not affect the operation of any other law.

52. LIMITATIONS ON GRANT OR RENEWAL OF TAVERN LICENCES.

(1) A tavern licence shall not be granted or renewed in respect of any premises unless—

- (a) the premises are suitably constructed, to the satisfaction of the Commission, and the rooms are suitably furnished; and
- (b) the premises are provided—

- (i) in accordance with the law, with closets and other sanitary conveniences for the use of the public frequenting the premises; and
 - (ii) with such additional closets and sanitary conveniences as the Commission thinks necessary; and
- (c) seating and table accommodation at which liquor may be served or consumed is provided on the premises to the satisfaction of the Commission; and
- (d) provision is made, to the satisfaction of the Commission, for the supply of food or meals to such members of the public frequenting the premises as desire it; and
- (e) all dining-rooms and kitchens are protected from the ingress of flies and insects to the satisfaction of the Commission.
- (2) Notwithstanding Subsection (1), a tavern licence shall not be granted in respect of any premises unless—
- (a) an Inspector has examined the premises the subject of the proposed licence; and
 - (b) the Inspector has reported to the Commission that the premises are suitable for the use to which they are to be put.
- (3) The Commission may include in a tavern licence a condition that, during such hours as are specified in the licence, the licensee provide such service to members of the public as is so specified.
- (4) Where practicable, the Commission shall include in a tavern licence a condition that no liquor other than ale, beer, porter, stout, cider and perry shall be sold, supplied or disposed of in that part of the premises commonly known as the public bar or in such other part of the premises as is specified in the licence.
- (5) The Commission shall not, except with the written consent of the Minister, grant a tavern licence.
- (6) Subsection (5) does not prevent the Commission from granting an application for a tavern licence provisionally under Section 30 subject to the consent of the Minister being given.
- (7) In a case referred to in Subsection (6), the grant shall be deemed to be confirmed when the Minister's consent is given.
- (8) Notwithstanding this Act, where—
- (a) a tavern licence is applied for by a person other than a publican; and
 - (b) a publican satisfies the Commission that he is willing and able to supply, under a tavern licence, or under his publican's licence or a variation of that licence, service not inferior to that proposed by the applicant, to members of the public intended to be served under the tavern licence applied for,

then in order to enable the publican to make such application or arrangements as the Commission directs or permits, the Commission may adjourn consideration of the application for the tavern licence for a period to be fixed by it, on such conditions as to costs or otherwise as it determines.

(9) In a case referred to in Subsection (8), the Commission shall, all other things being equal, give to a publican preference over any other applicant.

(10) This section does not affect the operation of any other law.

53. PLANS TO BE LODGED WITH APPLICATIONS.

(1) A plan of the premises the subject of the application, showing the prescribed details, with as many copies as are directed by the Commission, generally or in a particular case, shall be lodged with an application for a publican's licence, tavern licence or limited hotel licence.

(2) The Inspector shall report to the Commission on the extent and class of accommodation required under the licence for the convenience of the public.

(3) After the grant or renewal of a publican's licence, tavern licence or limited hotel licence the licensed premises and the accommodation of the premises shall not be substantially altered except on application to, and by permission or direction of, the Commission.

54. SPECIAL PROTECTION FOR PUBLICANS.

(1) Where, at the time of granting or renewing a publican's licence, the Commission is satisfied that the accommodation and facilities supplied or to be supplied under the licence—

- (a) are at least sufficient to meet the anticipated needs of the public for a certain period; and
- (b) are of such value that the licensee should have the protection of this section,

the Commission may make an order that a tavern licence shall not be granted—

- (c) for a period less than the period referred to in Paragraph (a); or
- (d) for a period greater than two years,

within a distance specified in the order, unless the order is sooner revoked by the Commission.

(2) The power to make or revoke an order under Subsection (1) shall not be—

- (a) delegated under Section 10; or
- (b) exercised without the concurrence of the Chief Licensing Commissioner.

55. LICENSEE, ETC., TO RESIDE ON PREMISES.

(1) Subject to Section 152, the holder of a publican's licence or limited hotel licence must—

- (a) reside on the licensed premises specified in his licence; or
- (b) be represented by a manager approved by the Commission.

Penalty: A fine not exceeding K100.00.

(2) An appointment of a manager must be in writing and, subject to Section 152, not more than one manager shall be appointed in respect of a licence at the same time.

(3) Subject to Section 152, a manager must, during the subsistence of the licence, reside on the licensed premises, except where the licensee is himself residing on the premises.

Penalty: A fine not exceeding K100.00.

(4) Where the appointment of a manager has been approved by the Commission under this section, then until written notice of the revocation of his appointment or his resignation is filed with the Commission by the licensee or the manager the manager shall be deemed to be the person licensed in respect of the premises.

(5) This section does not absolve the licensee from liability under this Act.

56. EXHIBITION OF NAME OF PUBLICAN.

A publican must—

- (a) have his name in legible letters at least 50.80mm high, together with the words "Licensed Publican"; and
- (b) have the name of his manager (if any), together with the word "Manager", painted up or otherwise clearly and legibly displayed and kept constantly displayed,

on a conspicuous part of the front of his licensed premises, and so as to be clearly seen and read.

Penalty: A fine not exceeding K50.00.

Division 3.

Dealers' Licences.

57. DEALERS' LICENCES.

(1) Subject to this Act, and except as provided by Section 96, a dealer's licence authorizes the licensee to sell, supply and dispose of liquor from the licensed premises to any holder of a licence, during such hours as the Commission specifies in the licence, in quantities of not less than 9.092l at the one time.

(2) The annual fee for a dealer's licence is as prescribed.

58. LIMITATIONS ON GRANT OF DEALER'S LICENCE.

A dealer's licence shall not be granted or renewed in respect of any premises unless—

- (a) the premises are suitably constructed, to the satisfaction of the Commission; and
- (b) an Inspector has—
 - (i) examined the premises; and
 - (ii) reported to the Commission that the premises are suitable for the use to which they are to be put.

Division 4.

Storekeepers' Licences.

59. EFFECT OF STOREKEEPERS' LICENCES.

(1) Subject to Subsections (2) and (3), a storekeeper's licence authorizes the licensee to sell and dispose of—

- (a) liquor (other than ale, beer, porter, stout, cider or perry) by the case, bottle or keg, in quantities of not less than 350ml at any one time, except as otherwise prescribed; and
- (b) ale, beer, porter, stout, cider or perry in quantities of not less than 8l,

on the licensed premises between the hours of 8 a.m. and 6 p.m. on all days other than Sunday, Good Friday, Christmas Day or any prescribed day or part of a day.

(2) Where for any reason the Head of State, acting on advice, or the Commission restricts the trading hours on any particular day for premises subject to publicans' licences or tavern licences in an area, the trading hours under Subsection (1) shall be deemed to be restricted to the extent that liquor shall not be sold or disposed of from premises the subject of a storekeeper's licence in the area—

- (a) within one hour before the time fixed for the end of trading under the publicans' licences or tavern licences on that day; or
- (b) after 6 p.m. of that day,

whichever is the earlier.

(3) If the Commission for any special reason thinks proper, a storekeeper's licence may authorize the sale and disposal of ale, beer, porter, stout, cider or perry in quantities less than those specified in Subsection (1), subject to such conditions as the Commission thinks proper.

(4) Where, in the opinion of the Commission, it is necessary in order to meet the reasonable requirements of the public, a storekeeper's licence may be made

subject to a condition that during the hours specified in the licence, being within the hours specified in Subsection (1), the licensee—

- (a) shall sell and dispose of; or
- (b) may only sell and dispose of,

ale, beer, porter, stout, cider or perry in quantities less than those specified in Subsection (1).

60. LIMITATIONS ON GRANT OR RENEWAL OF STOREKEEPERS' LICENCES.

(1) Notwithstanding this Act, the Head of State, acting on advice, may, by notice in the National Gazette—

- (a) prohibit the grant of any further applications for storekeepers' licences; or
- (b) limit the number of applications for the grant of storekeepers' licences that may be granted,

in an area specified in the notice, and may in the same notice or in a subsequent notice direct that only the number of storekeepers' licences specified in the notice shall be renewed in that area.

(2) Except with the prior approval of the Minister, the Commission shall not grant or renew a storekeeper's licence unless—

- (a) in the case of premises situated within the boundaries of a town—
 - (i) the part of the premises used for the display of liquor for sale and for the sale of liquor is so constructed as to be capable of being completely closed off from all other parts of the premises; and
 - (ii) no goods, other than liquor, are sold or displayed in that part; and
- (b) in the case of premises situated outside the boundaries of a town—the premises are used or intended to be used for no other purpose than for the storage, display, sale and supply of liquor.

(3) Where—

- (a) the number of storekeepers' licences that may be granted is limited under Subsection (1); and
- (b) there are more applications for renewal than the number that might be granted,

the Head of State, acting on advice shall, after receiving a report from the Commission, determine which applications for renewal shall be granted.

Division 5.

Booth Licences.

61. BOOTH LICENCES.

(1) Subject to any conditions specified by the Commission, a booth licence authorizes the licensee to sell, supply or dispose of liquor in a booth at a fair, race-meeting, show, recreation ground or place of public sport specified in the licence, on the day or days specified in the licence and during such hours, being within the hours set out in Section 47(2), as are so specified.

(2) A booth licence shall not be granted—

(a) to a person other than—

(i) a publican; or

(ii) in the absence of a publican prepared and able to supply, to the satisfaction of the Commission, the service required—the holder of a tavern licence; or

(b) for a period exceeding three days; or

(c) so as to permit the sale or supply of liquor at any athletic sports or a game or contest wholly or mainly held or engaged in by—

(i) students of an educational establishment the majority of whom are minors; or

(ii) members of an association or society the majority of the members of which are minors.

(3) Neither this Act nor a booth licence empowers the holder of a booth licence to enter on or occupy any land or premises, or to do any other act or thing, that he is not otherwise entitled to enter on, occupy or do by law.

(4) The fee for a booth licence is as prescribed.

Division 6.

Packet Licences.

62. PACKET LICENCES.

(1) A packet licence authorizes the master or captain of the vessel specified in the licence (being a vessel by which passengers are conveyed from a place within or outside the country to a place within or outside the country) to sell and dispose of liquor to a passenger during the passage of the vessel between those places between such hours as the Commission specifies in the licence.

(2) A packet licence shall be granted in respect only of a vessel—

(a) that habitually makes a scheduled voyage the extreme points of which are more than 65 km apart; and

(b) that—

- (i) is of more than the prescribed tonnage; and
- (ii) either—
 - (A) contains adequate cabin accommodation, to the satisfaction of the Commission, for not less than the prescribed number of passengers; or
 - (B) is an overseas ship within the meaning of the *Shipping Act 1951*; and
- (c) that provides for the use of passengers an adequate lounge, sitting room or other accommodation, to the satisfaction of the Commission, in which liquor may be consumed; and
- (d) that is a sea-going vessel.

(3) An application for a packet licence for a vessel shall be made by the owner or agent of the vessel.

- (4) The fee for a packet licence is as prescribed.

Division 7.

Club Licences.

63. EFFECT OF CLUB LICENCES.

(1) For the purposes of this section, “**residential club**” means a club the premises of which contain for the accommodation of the members—

- (a) not less than four bedrooms and one sitting-room, besides the rooms occupied by the employees of the club; and
- (b) a suitable complement of bedding and furniture.

(2) Subject to this Act, a club licence authorizes the supply and disposal on the club premises of liquor—

- (a) during trading hours to members of the club whether subscribing or honorary for consumption on the premises by those members or their guests; and
- (b) at any time in a residential club to members who are lodgers; and
- (c) between the hours of 12 noon and 2.30 p.m., and 6 p.m. and 9 p.m., on any day, as part of a meal, to members and their guests having a meal on the premises.

(3) A club licence does not authorize the sale, supply or disposal of liquor for consumption otherwise than on the licensed premises.

(4) Trading hours for premises the subject of a club licence are such hours as the Commission, taking into account the nature of the club, the reasonable requirements of members and the facilities provided, thinks proper, being hours within and not exceeding the following hours:—

- (a) from 11 a.m. to 2 p.m., and from 4 p.m. to 8 p.m., on any day, other than Saturday, Sunday, Good Friday, Christmas Day or any prescribed day or part of a day;
 - (b) from 10 a.m. to 2 p.m., and from 4 p.m. to 8 p.m., on Saturday;
 - (c) from 11 a.m. to 1 p.m., and from 5 p.m. to 7 p.m., on Sunday;
 - (d) from 12 noon to 8 p.m. on Christmas day, when it is not a Sunday.
- (5) In relation to a club licence, the Commission may approve—
- (a) an extension of trading hours until not later than 12 midnight on not more than one day in every week; and
 - (b) a variation of trading hours on not more than two other days in any week,

where it is of the opinion that a special need exists.

(6) A variation of trading hours approved under Subsection (5)(b) shall not authorize trading—

- (a) before 10 a.m.; or
- (b) after 11 p.m.; or
- (c) during more hours than are set out in Subsection (4) for the day to which the variation relates.

(7) In approving extended trading hours or a variation of trading hours under Subsection (5), the Commission—

- (a) shall take into account—
 - (i) the reasonable requirements of members of the club; and
 - (ii) any special provision to be made or service or facilities to be provided by the club during those hours; and
- (b) may make its approval subject to such conditions as it thinks proper.

(8) Any extended trading hours or variation of trading hours approved under Subsection (5) shall be specified in the licence.

(9) In approving extended trading hours or a variation of trading hours under Subsection (5), the Commission may direct that, during the extended trading hours or varied trading hours outside the hours set out in Subsection (4), service—

- (a) be limited to such part of the licensed premises as it thinks proper; or
- (b) be by way of steward service only; or
- (c) be subject to such further or other conditions as it thinks proper.

64. GRANT OF CLUB LICENCES.

(1) Subject to this section, a club licence may be granted, in respect of the premises of a club, to the secretary of the club or other officer of the club duly

appointed by the club for that purpose on behalf of the club, on application by the secretary in pursuance of a resolution of a majority of the members of the club present at a properly constituted general meeting, and may be renewed on the application of the secretary in pursuance of a resolution of the committee of the club.

(2) The Commission may, in relation to the grant of a club licence, include a condition that no liquor other than ale, beer, porter, stout, cider and perry shall be sold or disposed of in the premises the subject of the licence, either generally or for such period as may be specified in the licence.

65. LIMITATIONS ON GRANT OR RENEWAL OF CLUB LICENCES.

- (1) A club licence shall not be granted or renewed unless the club—
- (a) is a *bone fide* association or body of not less than 50 (or in the case of a club the premises of which are situated more than 15 km from the boundary of the city of Port Moresby or Lae or the town of Rabaul, 20 or such lesser number as the Commission in any particular case determines) subscribing members of or over the age of 18 years, whose subscriptions are paid; and
 - (b) is established for social, literary, political, sporting, athletic or other lawful purposes; and
 - (c) provides and maintains, from the joint funds of the members, accommodation suitable for the purposes of the club; and
 - (d) has a rule that a person is not entitled to derive a benefit or advantage from the club that is not shared equally by every member; and
 - (e) has a rule that the club shall hold a meeting of members at least once in each year for the election of a committee to manage the affairs of the club and for the presentation of a properly audited balance-sheet; and
 - (f) has a rule providing that a visitor shall not be supplied with liquor on the club premises except on the invitation of, and in the company of, a member; and
 - (g) has a rule that liquor shall not be supplied to a person under the age of 18 years; and
 - (h) has a rule that liquor shall not be supplied during prohibited hours; and
 - (i) makes no payment, and permits no payment to be made, to a secretary, employee or other person by way of commission, profit or allowance from or on the receipts from liquor disposed of in the club premises; and
 - (j) keeps on the club premises, and produces at the time of application, a register of members showing the amount and date of payment of all members' subscriptions; and
 - (k) has a rule or rules providing for the proposal and election of members and for the keeping of a permanent record of every such election; and

- (l) has a rule or rules that a person shall not—
 - (i) be made an honorary or temporary member; or
 - (ii) be relieved of the payment of the regular subscription,
 - except in the case of a person possessing the qualifications specified in the rules and subject to any conditions and regulations so specified; and
- (m) has a rule or rules providing for the keeping, to the satisfaction of the Commission, of accounts and books setting out, in the manner and with the particulars usual in such accounts and books, the financial affairs of the club from time to time; and
- (n) satisfies the Commission that the rules are enforced and observed.

(2) In determining a number of subscribing members of or over the age of 18 years for the purposes of Subsection (1)(a), the Commission shall have regard to—

- (a) the situation and nature of the club; and
- (b) such other matters as seem to it relevant.

(3) The Commission may suspend a club licence for a specified time, or cancel or refuse to grant or renew a club licence, on proof that a rule or condition prescribed by Subsection (1) has been broken.

(4) The annual fee for a club licence is as prescribed.

66. SUBLETTING OF BARS IN CLUBS.

(1) Where, in the opinion of the Commission, it would be desirable in the interests of—

- (a) the more efficient running of a club; or
- (b) better compliance with the administration of this Act,

the Commission may, with the approval of the Minister, authorize a club to sublet the right to sell liquor on or in respect of the club premises.

(2) A contract or arrangement for the subletting of the right to sell liquor in pursuance of an authority under Subsection (1) is of no force or effect until approved by the Commission.

(3) A contract or arrangement referred to in Subsection (2) does not relieve a club, a licensee or any other person of any responsibility under this Act.

(4) For the purposes of this Act the person to whom the right to sell the liquor is sublet shall be deemed to be an employee of the club.

67. ALTERATION OF CLUB LICENCE.

(1) On—

- (a) a resolution of the committee of the club; and

- (b) application to the Commission; and
- (c) payment of the prescribed fee,

the name of some other person may, with the approval of the Commission, be substituted for that of the person to whom a club licence was issued, and the licence and the records of the Commission shall be altered accordingly.

(2) On—

- (a) a resolution of the committee of the club; and
- (b) application to the Commission,

a club licence may, with the approval of the Commission, be altered by the substitution of other premises for the premises licensed, and the substituted premises become the club's licensed premises.

(3) Section 31 does not apply to applications made under Subsection (1) or (2).

Division 8.

Bottle-shop Licences.

68. BOTTLE-SHOP LICENCES.

(1) Subject to Subsection (2), a bottle-shop licence authorizes the licensee to sell, supply and dispose of liquor on the licensed premises—

- (a) from 11 a.m. to 2 p.m., and from 4 p.m. to 6 p.m., on any day, other than Saturday, Sunday, Good Friday, Christmas Day or any prescribed day or part of a day; and
- (b) from 10 a.m. to 2 p.m., and from 4 p.m. to 6 p.m., on Saturday; and
- (c) from 11 a.m. to 1 p.m. on Sunday; and
- (d) from 12 noon to 6 p.m. on Christmas Day, when it is not a Sunday.

(2) Notwithstanding Subsection (1), a bottle-shop shall at all times close on each day of trading at least two hours earlier than the premises for which the holder of the bottle-shop licence is otherwise licensed.

(3) The fee for a bottle-shop licence is as prescribed.

69. QUALIFICATIONS FOR HOLDING BOTTLE-SHOP LICENCE.

(1) A person other than the holder of a publican's licence, a tavern licence or a club licence is not qualified to hold a bottle-shop licence.

(2) The holder of a publican's licence, a tavern licence or a club licence is not entitled to hold a bottle-shop licence in respect of premises other than a bottle-shop situated on or adjacent to the premises—

- (a) for which he is already licensed; or
- (b) in respect of which he has made application to the Commission for the grant of a publican's licence, tavern licence or club licence.

70. LIMITATIONS ON GRANT OR RENEWAL OF BOTTLE-SHOP LICENCES.

(1) A bottle-shop licence shall not be granted or renewed in respect of any premises unless the premises—

- (a) are suitably constructed, to the satisfaction of the Commission; and
- (b) are completely separated from any bar area on the premises of the applicant; and
- (c) are capable of being completely closed off from all other parts of the premises of the applicant; and
- (d) contain adequate means of direct access by persons wishing to make purchases otherwise than from some other part of the premises of the applicant.

(2) Notwithstanding Subsection (1), a bottle-shop licence shall not be granted in respect of any premises unless an Inspector—

- (a) has examined the premises the subject of the proposed licence; and
- (b) has reported to the Commission that the premises are suitable for the use to which they are to be put.

(3) This section does not affect the operation of any other law.

Division 9.

Restaurant Licences.

71. RESTAURANT LICENCES.

(1) A restaurant licence authorizes the licensee—

- (a) to sell, supply and dispose of liquor for consumption on the licensed premises between the hours of 12 noon and 2.30 p.m., and 6 p.m. and 10 p.m., on any day, to a person having a meal on the premises; and
- (b) to permit the consumption of liquor by any such person on the licensed premises between those hours.

(2) A restaurant licence shall not be granted except in respect of premises in which meals are regularly supplied on sale to the public for consumption on those premises.

(3) The Commission may make it a condition of a restaurant licence that the restaurant provide meals for the public during all or any of the periods referred to in Subsection (1).

(4) The annual fee for a restaurant licence is as prescribed.

Division 10.**Occasional Licences.****72. OCCASIONAL LICENCES.**

(1) An occasional licence authorizes the licensee, during the time and at the place, specified in the licence, at which a lawful amusement, entertainment or function is held, to sell, supply and dispose of liquor for consumption at that place.

(2) An occasional licence may be made subject to a condition restricting the kinds or quantity, or both, of liquor to be sold, supplied or disposed of under it, and to such special conditions as the Commission in any particular case determines.

(3) Where an occasional licence is granted to the holder of a club licence, the occasional licence authorizes the sale, supply and disposal of liquor to members of the public.

(4) An occasional licence may be granted for a single amusement, entertainment or function, or for a number or series of amusements, entertainments or functions.

(5) An occasional licence shall not be granted to a person other than a licensee unless the Commission is satisfied that the purpose to which the profits (if any) arising out of the services supplied under the licence will be applied to a *bona fide* charitable purpose or to provide funds for a non-proprietary body approved by the Commission.

(6) Where an occasional licence is granted to the holder of some other licence, it may be endorsed on that last-mentioned licence.

(7) An occasional licence shall not be granted where, in the opinion of the Commission, some other licence or permit would be sufficient or more appropriate.

(8) The fee for an occasional licence is as prescribed, but where the purpose to which the profits arising out of the services supplied under the licence are to be applied is a *bona fide* charitable purpose the Commission may waive the fee.

73. PROVISIONAL GRANT OF OCCASIONAL LICENCE.

(1) In addition to any other powers conferred on it under this Act, the Commission may, on an application for an occasional licence for a number or series of amusements, entertainments or functions, grant the application provisionally under Section 30, subject, amongst other things, to a condition that the grant may be confirmed by a member of the Commission on—

- (a) advice to him of details of a particular proposed amusement, entertainment or function, or of a number of particular amusements, entertainments or functions; and
- (b) approval by him of it or them.

(2) A provisional grant shall not be confirmed in respect of a number of amusements, entertainments or functions greater than the number specified in the

grant, or otherwise than for an amusement, entertainment or function of a type specified in the grant.

(3) In the case of an application for an occasional licence made by the holder of some other licence the provisional grant and the confirmation of the grant may be endorsed on that last-mentioned licence.

Division 11.

Canteen Licences.

74. CANTEEN LICENCES.

(1) The Commission may grant to an employer a canteen licence.

(2) A canteen licence—

(a) authorizes an employer to establish a canteen for his employees; and

(b) may authorize the sale at the canteen of liquor subject to such terms and conditions as—

(i) are specified by the Commission in the licence; or

(ii) are prescribed.

(3) A canteen licence shall not be granted—

(a) to an employer who employs less than 25 employees for whom the canteen is to be established; or

(b) for the sale or supply of liquor at a canteen that is situated at a place within 16.09km of the licensed premises of a publican or tavern-keeper, the distance being calculated by the shortest, reasonably practicable route.

(4) A canteen licence is subject to conditions that—

(a) no person is permitted to derive a benefit or advantage from the proceeds of the sale of liquor disposed of on the canteen premises that is not shared equally by every employee; and

(b) the canteen is not carried on for the purposes of profit or gain to the employer or to individual employees.

75. APPLICATION TO LICENSED CANTEENS OF CERTAIN LAWS.

(1) Except as otherwise specified by the Commission or prescribed, the provisions of this Act (other than Section 21) do not apply to or in respect of a canteen established under this Division.

(2) For the purposes of any other law, a canteen established under this Division shall be deemed to be licensed premises.

76. REGULATIONS IN RESPECT OF CANTEENS.

(1) The Head of State, acting on advice, given on the recommendation of the Commission, may make regulations for or with respect to—

- (a) regulating the maintenance of order at or in the vicinity of licensed canteens; and
- (b) prescribing the hours during which liquor may be sold or supplied to any person in a licensed canteen; and
- (c) regulating, controlling, restricting or prohibiting the sale, supply, disposal, use or possession of liquor—
 - (i) at or in a licensed canteen; or
 - (ii) in or on any land or premises of the employer; and
- (d) any matters or things necessary or expedient to be prescribed for carrying into effect the objects and purposes of this Division; and
- (e) the imposition of fines, not exceeding K50.00 for offences against the regulations.

(2) Without limiting the generality of Subsection (1), the regulations may provide—

- (a) for the payment by the employer to the State of an annual fee, specified in the regulations, of not more than 6% of the gross amount paid or payable by the employer for liquor purchased for sale in the canteen during the period of 12 months; and
- (b) for the making by the employer for the purposes of Paragraph (a) of annual returns of liquor purchased.

Division 12.***Permits.*****77. SUPPER PERMITS.**

(1) The holder of a publican's licence, restaurant licence or club licence may apply to the Commission for a supper permit.

(2) A supper permit authorizes the holder to sell, supply and dispose of liquor, or to permit the consumption of liquor, on such part of the licensed premises (other than a bar-room) as is specified in the permit, for consumption with and as ancillary to substantial refreshments, between 10.30 p.m. and 11.30 p.m. on any day other than Good Friday or a Sunday.

(3) A supper permit shall not be granted unless the Commission is satisfied that—

- (a) the part of the licensed premises in respect of which the permit is sought is suitable for the purpose; and

- (b) there are on the licensed premises suitable facilities, and suitable arrangements have been made, for the service of substantial refreshments at the time to which the permit relates; and
- (c) there is a reasonable need for such service in the locality concerned.

(4) Unless sooner cancelled, a supper permit remains in force until the expiration of the term then current of the publican's licence, restaurant licence or club licence in respect of the premises concerned.

(5) The fee for a supper permit is as prescribed.

78. DINNER PERMITS.

(1) The holder of a restaurant licence may apply to the Commission for a dinner permit, and if the Commission is satisfied that there are reasonable grounds for the grant of a permit it may grant the application.

(2) Subject to this section, a dinner permit authorizes the holder to sell, supply and dispose of liquor, or to permit the consumption of liquor, on the licensed premises, between the hours of 10 p.m. and 12 midnight, as part of a meal.

(3) A permit under this section—

- (a) shall be granted in respect of a specified day only; and
- (b) may be restricted to such hours, within the limits set out in Subsection (1), as the Commission determines.

(4) The fee for a dinner permit is as prescribed.

79. SPECIAL PERMITS.

(1) The Commission may, on application, grant a special permit for liquor to be supplied and consumed outside trading hours at a special function, ceremony or event held on a set date—

- (a) for persons of or over the age of 18 years; and
- (b) at premises the subject of a club licence, publican's licence, tavern licence or restaurant licence,

whether or not a charge is made for admission to or attendance at the premises.

(2) For the purposes of Subsection (1), a regular function, ceremony or event held at intervals of less than six months shall not be deemed to be a special function, ceremony or event.

(3) Notwithstanding Subsections (1) and (2), where, in the opinion of the Commission—

- (a) it is desirable to meet the reasonable requirements of the public; and
- (b) the nature of the function, ceremony or event is such that it is proper to do so,

a special licence may be granted for a regular function, ceremony or event, in which case the permit shall be endorsed on the licence.

(4) A special permit shall specify—

- (a) the person or class of persons included under the permit; and
- (b) the hours and rooms or places within which liquor may be consumed,

and the supply of liquor to, or the consumption of liquor by, those persons or that class of persons under the specified conditions, is not an offence.

(5) The fee for a special permit is as prescribed.

80. CABARET PERMITS.

(1) The holder of a publican's licence or restaurant licence may apply to the Commission for a cabaret permit.

(2) Subject to Subsection (3), a cabaret permit authorizes the holder to sell, supply and dispose of liquor, or to permit the consumption of liquor, in such part of the licensed premises (other than a bar-room) as is specified in the permit, between—

- (a) in the case of the holder of a publican's licence—the hours of 8 p.m. on any day and 2 a.m. of the following day; and
- (b) in the case of the holder of a restaurant licence—the hours of 10 p.m. on any day and 2 a.m. of the following day.

(3) Subsection (2) does not apply in respect of—

- (a) the evening of a Sunday; or
- (b) Good Friday; or
- (c) the morning of Easter Saturday or of a Monday.

(4) A cabaret permit authorizes the sale, supply, disposal or consumption of liquor only—

- (a) in association with substantial refreshments taken during the hours to which the permit applies; and
- (b) in conjunction with dancing or cabaret entertainment, or both.

(5) A cabaret permit shall not be granted unless the Commission is satisfied that—

- (a) the part of the licensed premises in respect of which the permit is sought is suitable for the purpose; and
- (b) there are on the licensed premises suitable facilities, and suitable arrangements have been made, for the service of substantial refreshments at the times to which the permit relates; and
- (c) no nuisance or inconvenience will be caused to persons residing on or near the premises; and

(d) there is to be provided suitable cabaret entertainments, or a suitable dance floor and adequate music, or both.

(6) A cabaret permit may be made subject to such conditions as the Commission thinks proper.

(7) Unless sooner cancelled, a cabaret permit remains in force until the expiration of the term then current of the publican's licence or restaurant licence.

(8) The fee for a cabaret permit is as prescribed.

Division 13.

Trading Hours.

81. TRADING HOURS.

(1) Notwithstanding this Act, the Commission may, in respect of a Licensing District, make rules to determine the trading hours in respect of any class of licence under this Act.

(2) In making a determination under Subsection (1), in respect of a Licensing District, the Commission shall consult with—

(a) all Local-level Governments and Local-level Government Special Purposes Authorities in the District; and

(b) any other organs of regional, district or local government that have been or may be constituted for the District.

(3) Sections 75, 76 and 91 of the *Interpretation Act 1975* apply to rules made under Subsection (1).

Division 14.

Cancellation and Disqualification.

82. FORFEITURE OF LICENCE, ETC., FOR OFFENCES.

(1) If, within a period of 12 months, a licensee is convicted of three offences against this Act, or of an offence under the *Food Sanitation Act 1991* in relation to liquor supplied or kept on his licensed premises, the Commission may order that his licence or permit be cancelled.

(2) On the making of an order under Subsection (1), the licence or permit ceases to be of any force or effect, and the person whose licence or permit is cancelled is disqualified for a term of 12 months from obtaining a licence or permit.

(3) An order cancelling a licence or permit under this section shall be in the prescribed form.

83. CANCELLATION OF LICENCE, ETC., FOR FALSE STATEMENT IN APPLICATION.

On conviction for an offence against Section 97, a court may, in addition to or in substitution for the penalty prescribed in that section, order that a licence or permit obtained in consequence of the application the subject of the offence be cancelled.

84. SUSPENSION FOR SUPPLY OF LIQUOR TO INTOXICATED PERSONS, ETC.

(1) Where a licensee is convicted of an offence against Section 102, the court that convicts him may, in addition to any penalty that it imposes, order that his licence be suspended, wholly or in part, for a period not exceeding three months from such date as the court determines.

(2) A court that suspends a licence under Subsection (1) shall immediately notify the Commission of the suspension.

(3) A licensee aggrieved by an order of a court under Subsection (1) may, within 14 days of the date of the order, appeal to the Commission against the suspension of the licence.

(4) On appeal under Subsection (3), the Commission shall—

- (a) confirm the suspension; or
- (b) revoke the suspension; or
- (c) reduce the period of the suspension; or
- (d) vary the conditions of the suspension; or
- (e) vary the date from which the suspension takes effect; or
- (f) make such other order as seems to it reasonable,

and the decision of the Commission is final.

(5) No appeal against an order under Subsection (1) lies to the National Court.

85. ABANDONMENT OF LICENSED PREMISES.

(1) Subject to Subsection (3), a publican, tavern-keeper or holder of a bottle-shop licence who—

- (a) abandons his licensed premises; or
- (b) wilfully and persistently neglects to keep his licensed premises open for public convenience during trading hours,

is liable to have his licence cancelled or suspended by the Commission.

(2) Subject to Subsection (3), the holder of a storekeeper's licence who—

- (a) abandons his licensed premises; or
- (b) wilfully and persistently neglects to keep—

- (i) his licensed premises open for the sale of liquor as allowed by his licence during ordinary business hours; or
- (ii) liquor for sale on his licensed premises,

is liable to have his licence cancelled or suspended by the Commission.

(3) Notwithstanding Subsections (1) and (2), the holder of a storekeeper's licence may close his premises for the sale of liquor at the usual closing time of his store.

86. CANCELLATION OR SUSPENSION, ETC., OF LICENCE.

(1) After 14 days' notice to a licensee, the Inspector may apply to the Commission to disqualify the licensee—

- (a) because of breaches of or offences against this Act; or
- (b) because of continual failure on the part of the licensee to provide the services or accommodation required under the licence; or
- (c) on the ground that persons in a state of intoxication frequent or are frequently seen leaving the premises the subject of the licence; or
- (d) on the ground that the premises have been used for an unlawful purpose,

and if the matter complained of is proved the Commission may, by order, cancel the licence or permit and disqualify the licensee from holding a licence for a period not exceeding three years.

(2) Instead of cancelling a licence under this section, the Commission may—

- (a) suspend the licence; or
- (b) make an order cancelling the licence unless the licensee complies with the conditions specified in the order.

(3) An order shall not be made under this section if the licensee proves to the satisfaction of the Commission that the matters complained of—

- (a) did not amount to wilful misconduct by him; and
- (b) could not have been prevented by reasonable efforts on his part.

87. DISQUALIFICATION OF LICENSED PREMISES.

If a publican's licence, limited hotel licence, tavern licence or bottle-shop licence in respect of the same premises (whether for the time being held by the same or different persons) is cancelled under this Act on two separate occasions within a period of three years, the premises may be disqualified by the Commission from being the subject of a licence, for a period not exceeding three years from the date of the last cancellation.

88. CONTINUANCE OF LICENCE ON BEHALF OF OWNER.

(1) Where—

- (a) a publican, the holder of a limited hotel licence, tavern-keeper or bottle-shop licensee has his licence cancelled under this Act; and
- (b) the owner of the licensed premises in respect of which the licence was granted is not the occupier,

the Commission may—

- (c) on application by the owner of the premises; and
- (d) on being satisfied that he has the legal power to evict the occupier (if any) of the premises,

authorize the owner or a manager appointed by the owner to carry on the business of the premises until—

- (e) the end of the term or the cancellation of the licence; or
- (f) a date to be fixed by the Commission,

whichever first occurs.

(2) The person authorized under Subsection (1) shall, during the period that the authority is in force, be deemed to be the licensee.

(3) The fee for an authority under this section is as prescribed.

89. EFFECT OF CANCELLATION, ETC.

Where a licence is cancelled or suspended under this Act, the cancellation or suspension operates to cancel any permit, authority under Section 42(7) or certificate under Section 39(2) in relation to the licence.

PART IV. – PROHIBITION ORDERS.

90. ORDER AGAINST HABITUAL DRUNKARDS.

(1) Subject to this section, where a District Court is satisfied that a person habitually consumes liquor to excess or so as to endanger or interrupt the peace, welfare or happiness of his family, it may make an order forbidding all persons to supply or sell liquor to the person named in the order, for a period not exceeding 12 months from the date of the order.

(2) An order under Subsection (1) made by a District Court that does not include a District Court Magistrate shall not operate for more than one month after the date of the order unless within that time it is confirmed by a District Court consisting of one or more District Court Magistrates.

(3) An order made under Subsection (1) shall be served immediately by or by order of the court on the person concerned together with, in the case of an order referred to in Subsection (2), a notification that the order may be confirmed in his absence unless he gives the court notice of his intention to object to the confirmation.

(4) Where a person, against whom an order referred to in Subsection (2) is made, gives notice of his intention to object to the confirmation of the order, the order shall not be confirmed until he has had an opportunity of presenting his case, and if he gives such notice the order continues in force until the end of the confirmation proceedings (if any).

(5) Where no notice of intention to object to the confirmation of an order under this section is given, the order may be confirmed in the absence of the person in relation to whom it was made.

(6) Except as provided in Section 95, a person in relation to whom an order under Subsection (1) has been made and is in force and who is in possession of or consumes liquor, is guilty of an offence.

Penalty: Imprisonment for a term not exceeding six months.

(7) Subject to Section 95, where an order under this section has been made a person who has been served with a copy of the order, or who knows that the order has been made, and who, while the order is in force—

- (a) supplies or sells liquor; or
- (b) permits liquor to be supplied or sold,

to or for the use of the person named in the order, is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding 12 months, or both.

(8) The Clerk of the District Court that makes an order under Subsection (1) shall take all reasonable steps necessary to inform persons likely to be affected by the making of the order and of subsequent proceedings (if any) on the order.

91. ORDER TO EMPLOYER OF HABITUAL DRUNKARD TO PAY PART OF WAGES TO WIFE, ETC.

(1) Subject to this section, where a District Court or is satisfied that a person habitually consumes liquor to excess or so as to endanger the welfare of his family, it may make an order that the person in whose employ that person is from time to time shall deduct such amounts, and at such intervals, as the court determines, and pay them to—

- (a) the wife of the person for the upkeep of herself and his children (if any); and
- (b) a person appointed by the court for the upkeep of the child of the person against whom the order is made,

and the court may, at the same time or at a later date, impose such other conditions as it thinks reasonable to ensure the welfare of the wife or the children, or both.

(2) An application for an order under Subsection (1) may be made to the court on behalf of the wife or a child, or both, by—

- (a) a near relative of the wife or child; or
- (b) a member of the Police Force; or
- (c) a District Officer; or
- (d) a Community Development Officer; or
- (e) a member of a Local-level Government.

(3) An order under Subsection (1) shall be served immediately by or by order of the court on—

- (a) the person against whom the order has been made; and
- (b) his employer,

by handing copies of the order personally to them, or by forwarding copies by registered post to their last known addresses.

(4) The person against whom an order has been made may appeal to the National Court within 21 days of the date of the service of the order on him.

(5) Part XI of the *District Courts Act 1963*, with the necessary modifications, applies to an appeal under Subsection (4).

(6) An employer who, after being served with an order under Subsection (1), fails to obey the order is guilty of an offence.

Penalty: A fine not exceeding K200.00.

92. CHANGE OF EMPLOYMENT.

(1) The employer of a person against whom an order has been made under Section 91(1), who fails to notify a Community Development Officer in writing immediately that person leaves his employment is guilty of an offence.

Penalty: A fine not exceeding K50.00.

(2) When a person against whom an order under Section 91(1) has been made—

- (a) leaves his employment; or
- (b) changes his employment; or
- (c) changes his address,

he must immediately notify a Community Development Officer to that effect.

Penalty: A fine not exceeding K100.00.

(3) Where a person changes his employment a District Court or may, on the application of any of the persons referred to in Section 91(2), direct that any order previously made under Section 91(1) be served on the new employer.

93. VARIATION OF ORDER.

(1) A court may, on the application of—

- (a) the person against whom the order was made; or
- (b) any of the persons referred to in Section 91(2),

vary or cancel the order previously made.

(2) If an order is varied under Subsection (1), a copy of the order as varied shall be served immediately by or by order of the court on—

- (a) the person against whom the original order was made; and
- (b) his employer,

by handing copies of the varied order personally to them or by forwarding copies of the varied order by registered post to them at their last known addresses.

94. EXECUTIVE PROHIBITION OF CONSUMPTION, ETC., OF LIQUOR.

(1) The Minister or an officer authorized in writing by him may, as prescribed, make an order prohibiting the possession or consumption of liquor by a person when it appears to him necessary in the interests of the person.

(2) A person in relation to whom an order under Subsection (1) has been made and is in force and who is in possession of or consumes liquor is guilty of an offence.

Penalty: Imprisonment for a term not exceeding six months.

(3) Subject to Section 35, a person who knowingly or negligently—

- (a) supplies or sells liquor; or
- (b) permits liquor to be supplied or sold,

to or for the use of a person in relation to whom an order under this section is in force is guilty of an offence.

Penalty: Imprisonment for a term not exceeding six months.

95. EXCEPTION OF LIQUOR FOR IMMEDIATE TRANSPORT.

(1) Subject to this section, and for the purpose of immediate transport only, a person who has obtained the written consent of an Inspector or other officer duly authorized by the Minister for the purpose may entrust liquor to a person named in the consent and in relation to whom an order under Section 90 or 94 has been made and is in force, and the last-mentioned person may have in his possession for that purpose liquor so entrusted to him.

(2) Liquor referred to in Subsection (1) must be packed and contained, and kept during the transport, in a secure covering.

(3) An Inspector or other officer giving a consent under this section may make the consent subject to such conditions as he thinks proper, and a person—

- (a) to whom the consent is given; or
- (b) named in the consent,

who refuses or fails to comply with the conditions in respect of liquor entrusted to a person, or transported under the consent, is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding 12 months, or both.

(4) A consent under this section may be expressly made by the Inspector or other officer giving it to extend over a period not longer than six months, but may, in his discretion, be revoked at any time.

(5) An Inspector or other officer giving a consent under this section shall immediately forward a copy to the Commission.

(6) If a question arises as to whether liquor the subject of a consent under this section was or was not packed and contained in a secure covering at the time when it was entrusted to the person named in the consent, the fact that the liquor was not so packed and contained at any period whilst in his possession is, in the absence of conclusive proof to the contrary, sufficient evidence that it was not so packed and contained at that first-mentioned time or during the transport.

(7) The Minister may, by notice in the National Gazette, suspend the operation of this section, wholly or in part, for any period and with respect to any place or person.

PART V. – RESTRICTIONS ON SUPPLY TO LICENSEES IN CERTAIN AREAS.

96. DECLARED AREAS.

(1) The Minister may declare an area, other than an area within a town, to be a declared area for the purposes of this section.

(2) A person other than the State or an authority or instrumentality of the Government who, without lawful authority or excuse (proof of which is on him), sells, supplies or disposes of liquor to the holder of a licence or permit for subsequent sale, supply or disposal within a declared area is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(3) The holder of a licence or permit who, in a declared area, sells, supplies or disposes of liquor that has been obtained from a person other than the State or an authority or instrumentality of the Government is guilty of an offence.

Penalty: A fine not exceeding K200.00.

PART VI. – OFFENCES GENERALLY.**97. FALSE STATEMENT IN APPLICATION.**

A person who knowingly makes a statement in or in connection with an application under this Act that is false or misleading in a material particular is guilty of an offence.

Penalty: A fine not exceeding K400.00.

98. UNLAWFUL, SALE, ETC., OF LIQUOR.

(1)⁶ ⁷Except as expressly provided in this Act, a person who, directly or indirectly—

- (a) sells liquor, or permits liquor to be sold; or
- (b) in a club—supplies liquor or permits liquor to be supplied,

without being licensed to do so under this Act is guilty of an offence.

Penalty: A fine of not less than K1,000.00 and in default of payment of the fine, imprisonment for a term of six months, and the court has no discretion to make a lesser order or to impose a lesser sentence.

(1A)⁸ ⁹Except as expressly provided in this Act, a licensee or a holder of a permit who sells or supplies liquor other than in accordance with the conditions prescribed in, and in the premises the subject of, the licence or permit is guilty of an offence.

Penalty: A fine not exceeding K400.00 and in default of payment of the fine, imprisonment for a term not exceeding 12 months.

(2) Subsection (1) does not apply to a person who, as the employee or manager of, and for the use and benefit of, a licensee or holder of a permit, and under the authority conferred by the licence or permit, sells, supplies or disposes of liquor in the premises of the licensee or holder of the permit under the prescribed conditions.

(3) On a conviction under this section of a person who is not a licensee or the holder of a permit, all liquor in his possession, together with the vessels containing the liquor, is forfeited to the State.

99. SUPPLY OF LIQUOR TO LICENSEE.

A person other than—

- (a) a brewer licensed under Part II of the *Excise (Beer) Act 1952*; or
- (b) a distiller licensed under Part III of the *Distillation Act 1955*; or

⁶ Section 98(1) amended by No. 43 of 1979, s1.

⁷ Section 98(1) amended by No. 43 of 1979, s1.

⁸ Section 98(1A) added by No. 43 of 1979, s1.

⁹ Section 98(1A) added by No. 43 of 1979, s1.

- (c) a licensed dealer,

who sells, supplies or disposes of liquor to the holder of a licence or permit is guilty of an offence.

Penalty: A fine not exceeding K200.00.

100. PURCHASE OF LIQUOR BY LICENSEES, ETC.

The holder of a licence or permit who purchases or otherwise acquires liquor from any person other than—

- (a) a brewer licensed under Part II of the *Excise (Beer) Act 1952*; or
 (b) a distiller licensed under Part III of the *Distillation Act 1955*; or
 (c) a licensed dealer,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

100A. SUPPLY OF LIQUOR BY BREWERS.

¹⁰A person licensed as—

- (a) a brewer under Part II of the *Excise (Beer) Act 1952*; or
 (b) a distiller under Part III of the *Distillation Act 1955*,

who sells supplies or disposes of liquor to a person other than the holder of a licence or permit under this Act is guilty of an offence.

Penalty: A fine not exceeding K400.00.

101. PROHIBITION OF CARRIAGE, ETC., OF LIQUOR BY HOLDERS OF CERTAIN LICENCES.

(1) Subject to Subsections (3) and (4), the holder of a licence under the *Trading Act 1946* or under the *Licences Act (T.N.G.) 1952* who carries, stores or is in possession of liquor, except by virtue of and in premises the subject of a licence under this Act, is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(2) On the conviction of a person for an offence against Subsection (1), the court which convicts him may cancel the licence under the *Trading Act 1946* or under the *Licences Act (T.N.G.) 1952* or both, as the case may be.

(3) An offence against Subsection (1) shall not be deemed to have been committed merely by reason of the carriage, storage or possession of liquor for the personal use of the holder of a licence referred to in that subsection or his family or employees and not for sale contrary to this Act.

¹⁰ Section 100A added by No. 7 of 1976.

(4) An offence against Subsection (1) shall not be deemed to have been committed by reason of the carriage, storage or possession of liquor by the holder of a pedlar's licence under the *Licences Act (T.N.G.) 1952* as *bona fide* freight and not for sale contrary to this Act.

(5) The onus of proof of a fact referred to in Subsection (3) or (4) is on the person charged.

102. SUPPLY OF LIQUOR TO INTOXICATED PERSONS, ETC.

(1) A licensee who, without reasonable excuse (proof of which is on him), sells or supplies, or permits a person to sell or supply, liquor to or for the use of—

- (a) an intoxicated person or an habitual drunkard; or
- (b) a person apparently under the age of 18 years; or
- (c) a person who is of unsound mind or is reasonably suspected of being of unsound mind,

is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(2) Subject to Subsection (3), a licensee who supplies liquor to a person whom he—

- (a) suspects; or
- (b) has reasonable grounds for suspecting; or
- (c) would, if he used reasonable care, suspect or have reasonable grounds for suspecting,

of intending to dispose of the liquor unlawfully is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(3) It is a defence to a charge of an offence against Subsection (2)(c) that the licensee, at or before the time of the supply—

- (a) identified the person to whom the liquor was supplied to his satisfaction; and
- (b) obtained a written statement of his intended method of disposal of the liquor,

and the statement did not show reasonable grounds for suspecting that he intended to dispose of the liquor unlawfully.

103. RESTRICTIONS ON PERSONS UNDER 18.

(1) A person under the age of 18 years who—

- (a) consumes liquor on licensed premises; or
- (b) purchases or obtains, or attempts to purchase or obtain, liquor from licensed premises or a licensee,

is guilty of an offence.

Penalty: A fine not exceeding K10.00.

(2) Where—

- (a) a member of the Police Force; or
- (b) a licensee or a servant of a licensee,

has reasonable cause to suspect that a person has committed or is about to commit an offence against Subsection (1), the member of the Police Force, licensee or servant, as the case may be, may request him to state his age.

(3) A person who, when requested under Subsection (2) to state his age—

- (a) refuses or fails to answer the request; or
- (b) makes a statement that is false in a material particular,

is guilty of an offence.

Penalty: A fine not exceeding K10.00.

(4) A licensee who permits a person under the age of 18 years to be in a bar-room on his licensed premises while liquor is being sold in the bar-room is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(5) A person who sends a person under the age of 18 years to licensed premises for the purpose of obtaining liquor is guilty of an offence.

Penalty: A fine not exceeding K50.00.

104. SALE, ETC., OF LIQUOR DURING PROHIBITED HOURS.

(1)¹¹ ¹²A licensee who, during prohibited hours—

- (a) sells liquor; or
- (b) keeps his licensed premises open for the sale of liquor; or
- (c) except as permitted by or under this Act, permits liquor to be consumed on his licensed premises,

is guilty of an offence.

Penalty: Immediate cancellation of the licence and a fine not exceeding K1,000.00 and in default of payment of the fine, imprisonment for a term of six months, and the court has no discretion to make a lesser order or to impose a lesser sentence.

(2) Subject to Subsections (3) and (4), a person who purchases or obtains liquor from, or consumes liquor on, licensed premises outside trading hours is guilty of an offence.

¹¹ Section 104(1) replaced by No. 43 of 1979, s2.

¹² Section 104(1) replaced by No. 43 of 1979, s2.

Penalty: A fine not exceeding K50.00.

(3) It is not an offence against Subsection (2) for a person to purchase, obtain or consume liquor on licensed premises outside trading hours if he—

- (a) is the licensee or the manager for the licensee; or
- (b) is a member of the licensee's or manager's family or an employee of the licensee living, staying or working on the licensed premises; or
- (c) is a person entitled under this Act to be supplied with liquor on the licensed premises outside trading hours; or
- (d) is a person to whom liquor may be supplied on the licensed premises under a permit.

(4) It is not an offence against Subsection (2) for a person who has purchased or obtained liquor on licensed premises within trading hours to consume the liquor on those premises within 15 minutes after those hours.

105. CONSUMPTION ON LICENSED PREMISES OF LIQUOR SUPPLIED ELSEWHERE.

A person who in a part of any licensed premises open to the public consumes liquor other than liquor supplied by the licensee for consumption on that part of the premises is guilty of an offence.

Penalty: A fine not exceeding K10.00.

106. PERSONS ON LICENSED PREMISES DURING PROHIBITED HOURS.

(1) A person who, without lawful excuse (proof of which is on him), enters or is on any licensed premises during prohibited hours is guilty of an offence.

Penalty: A fine not exceeding K40.00.

(2) Without limiting the generality of the meaning of "lawful excuse" in Subsection (1) it is lawful for any member of a licensed club or his guest to remain on the licensed premises of the club during prohibited hours for the purpose of any social or sporting occasion.

107. SALE, ETC., OF LIQUOR OTHERWISE THAN FOR CASH.

(1) A licensee who—

- (a) receives in payment of, or as a pledge for, liquor supplied in his licensed premises anything except current money, bank notes, cheques on banks, postal notes or postal money orders; or
- (b) takes any such notes, cheques or orders at less than their full nominal value,

is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(2) Subject to Subsection (3), a publican, the holder of a limited hotel licence, a tavern-keeper, the holder of a storekeeper's licence, or bottle-shop licence who sells liquor otherwise than for payment received before or at the time of sale is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(3) If liquor—

(a) is sold or supplied for consumption with a meal supplied at the same time; and

(b) is consumed with the meal,

Subsection (2) shall not be deemed to be contravened if the price of the liquor is paid at the same time as the price of the meal, or immediately after the meal.

(4) A debt incurred for liquor sold in contravention of this section is irrecoverable.

108. SUBLETTING OF BAR.

Subject to this Act (and in particular to Section 66), a licensee who lets or sublets a bar-room or the right to sell liquor on or in respect of his licensed premises is guilty of an offence.

Penalty: A fine not exceeding K200.00.

109. UNLAWFUL GAMES, ETC., ON LICENSED PREMISES.

A licensee who permits a person—

(a) to play an unlawful game or sport; or

(b) to take part in starting-price betting; or

(c) to exercise, expose or open a lottery or allow a lottery to be played, thrown or drawn, without the consent of the Provincial Administrator of the province in which the licensed premises are situated,

on his licensed premises or the appurtenances to his licensed premises, is guilty of an offence.

Penalty: A fine not exceeding K100.00.

110. LICENSEE INTOXICATED ON LICENSED PREMISES.

A licensee who is intoxicated on a part of his licensed premises to which the public has access during such hours as the public has access to those premises, is guilty of an offence.

Penalty: A fine not exceeding K50.00.

111. UNLAWFUL CARRYING AWAY OF LIQUOR FROM LICENSED PREMISES.

(1) Subject to Subsection (2), a licensee who, during prohibited hours—

- (a) carries away; or
- (b) permits a person to carry away,

liquor from his licensed premises is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(2) Subsection (1) does not apply to the carrying away, by the licensee or a lodger or *bona fide* traveller, of liquor that is reasonably required for consumption by him on the day on which the liquor is carried away.

(3) A person who carries away liquor from licensed premises the licence relating to which does not permit the sale of liquor for consumption off the premises is guilty of an offence.

Penalty: A fine not exceeding K50.00.

(4) Subject to this Act, a person who, without lawful excuse—

- (a) purchases liquor from premises the subject of a publican's licence, tavern licence or club licence, or from any part of those premises, otherwise than—
 - (i) for consumption on the premises; or
 - (ii) from a licensed bottle-shop; or
- (b) carries away from any premises the subject of a publican's licence, tavern licence or club licence, or from any part of those premises, any liquor that has been purchased otherwise than from a licensed bottle-shop,

is guilty of an offence.

Penalty: A fine not exceeding K50.00.

(5) Subject to Subsection (6), a person who, without lawful excuse (proof of which is on him), carries away liquor from licensed premises outside trading hours is guilty of an offence.

Penalty: A fine not exceeding K50.00.

(6) A person under the age of 16 years shall not be convicted of an offence against Subsection (5) if it is proved that the person was sent by some other person to carry away the liquor.

112. EMPLOYMENT OF PERSONS DEPRIVED OF LICENCE, ETC.

A licensee who knowingly permits a person—

- (a) whose licence has been cancelled under this Act; or

- (b) to whom a licence has been refused by reason of bad character or misconduct,

to be employed in any capacity on his account on his licensed premises, within a period of two years after the date of the cancellation or refusal, is guilty of an offence.

Penalty: A fine not exceeding K100.00.

113. PRODUCTION OF LICENCE ON DEMAND.

The holder of a licence, certificate, authority or permit who, on demand by an Inspector or commissioned officer of the Police Force, fails immediately to produce the licence, certificate, authority or permit to the Inspector or officer is guilty of an offence.

Penalty: A fine not exceeding K50.00.

114. HARBOURING POLICE AND SUPPLYING LIQUOR TO POLICE.

A licensee who—

- (a) knowingly harbours or knowingly permits to remain on his premises a member of the Regular Constabulary Branch of the Police Force, in uniform, during any part of the time appointed for the member to be on police duty, otherwise than—
 - (i) for the purpose of keeping or restoring order; or
 - (ii) in the execution of his duty; or
- (b) supplies liquor to a member of the Police Force to whom Paragraph (a) applies; or
- (c) by himself or his employee, permits a person known to be a member of the Regular Constabulary Branch of the Police Force—
 - (i) to become intoxicated on his licensed premises; or
 - (ii) to be supplied with liquor while intoxicated,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

115. BRIBERY, ETC., OF INSPECTOR OR POLICE.

A licensee or the holder of a permit, or an applicant for a licence or permit, who—

- (a) improperly gives, offers or promises to give a fee, perquisite, gratuity or reward to—
 - (i) an Inspector or other person having duties or functions under this Act; or
 - (ii) a member of the Police Force; or

- (b) bribes or attempts to bribe an Inspector or a member of the Police Force; or
- (c) gives or offers to give money or any other valuable thing, or to lend or offer to lend money—
 - (i) to an Inspector or other person having duties or functions under this Act; or
 - (ii) a member of the Police Force,

is guilty of an offence.

Penalty: A fine not exceeding K500.00.

116. LOCKING OF BAR-ROOM, ETC., OUTSIDE TRADING HOURS.

(1) Except as otherwise permitted by or under this Act and subject to Subsection (2), a licensee who fails or neglects—

- (a) to keep every door of, and every opening into, the bar-room or liquor storeroom of his licensed premises shut and locked outside trading hours; or
- (b) in the case of a room that is not used solely as a bar-room or liquor storeroom—to keep all liquor in the room locked and secured in a cupboard or other receptacle, outside trading hours,

is guilty of an offence.

Penalty: A fine not exceeding K50.00.

(2) It is not an offence against Subsection (1) if a licensee causes a door of, or an opening into, a bar-room, a liquor storeroom or a cupboard or other receptacle referred to in that subsection to be opened—

- (a) for any prescribed purpose, and subject to such conditions as are prescribed; or
- (b) in accordance with the conditions of his licence; or
- (c) for any other lawful purpose.

(3) Without limiting the generality of the expression “**lawful purpose**”, the following are lawful purposes for the purposes of Subsection (2):—

- (a) the carrying out of cleaning, including the washing and drying of glasses;
- (b) the removal of empty containers and the replenishing of supplies of liquor;
- (c) the carrying out of repairs and maintenance or of improvements to fittings;
- (d) the replenishing of liquor supplies kept outside a bar-room or storeroom in a cupboard, refrigerator or other receptacle for any lawful purpose;

- (e) the inspection of the premises by an Inspector, commissioned officer of the Police Force or other person authorized for the purpose by any law;
- (f) the investigation of a theft or attempted theft;
- (g) any other prescribed purpose.

117. REGISTER OF LODGERS.

(1) The holder of a publican's licence, limited hotel licence or club licence must keep a register on the licensed premises in which there are entered, at the time when a person is accepted as a lodger by the licensee—

- (a) the name of the lodger; and
- (b) the date and the hour of the day or night on and at which the residence is taken up and terminates; and
- (c) the number or other description of the room or other part of the premises allotted to the lodger.

Penalty: A fine not exceeding K50.00.

(2) In any proceedings under this Act against a licensee, the fact that the name of a person in relation to the sale or supply of liquor to whom the proceedings are brought was not entered in the register referred to in Subsection (1) as at the time in question is *prima facie* evidence that he was not, at that time, a lodger on the premises.

118. REGISTER OF GUESTS, ETC.

(1) A publican or the holder of a limited hotel licence must keep a register on the licensed premises in which there are entered—

- (a) the name of any guest of a lodger, together with the name of his host; and
- (b) in the case of premises the subject of a publican's licence—the name of any *bona fide* traveller supplied or to be supplied with liquor as such,

before any liquor is sold or supplied to or for the guest or traveller as such and not as a member of the public.

Penalty: A fine not exceeding K50.00.

(2) In any proceedings under this Act against a publican or the holder of a limited hotel licence, the fact that the name of a person in relation to the sale or supply of liquor to whom the proceedings are brought was not entered in the register referred to in Subsection (1) as at the time in question is *prima facie* evidence that he was not, at that time, a guest of a lodger on the premises or a *bona fide* traveller.

119. CLEANLINESS OF LICENSED PREMISES.

The holder of a publican's licence, tavern licence, limited hotel licence or club licence who fails—

- (a) to maintain the sanitary appliances on his licensed premises, and the places in which they are, in good sanitary condition; or
- (b) to keep the licensed premises in a clean and sanitary condition and free from offensive or unwholesome matter; or
- (c) to cleanse and disinfect thoroughly all the rooms, passages, stairs, floors, windows, doors, walls, ceilings, closets, cesspools and drains of the licensed premises to the satisfaction of, and as often as is required by, or in accordance with any written order of, the Inspector or a Health Inspector,

is guilty of an offence.

Penalty: A fine not exceeding K100.00.

120. PERMITTING THIEVES, ETC., ON LICENSED PREMISES.

(1) Subject to Subsection (2), the holder of a publican's licence, limited hotel licence, tavern licence or club licence who knowingly permits a common prostitute, thief or person of notoriously bad character to be or continue on his licensed premises, or the appurtenances to those premises, is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(2) Subsection (1) does not prevent a licensee from supplying meals or accommodation to a person specified in that subsection.

121. DUTY TO EXCLUDE INTOXICATED PERSONS.

(1) The holder of a publican's licence, limited hotel licence, tavern licence, club licence or bottle-shop licence must, by whatever means are necessary (including the use of a reasonable amount of force), ensure that no intoxicated or disorderly person—

- (a) enters or is permitted to enter the licensed premises; or
- (b) remains or is permitted to remain on the licensed premises.

Penalty: A fine not exceeding K200.00.

(2) It is not a defence to a charge of an offence against Subsection (1) to prove that members of the Police Force were not available to assist in preventing the entry, or to assist in the removal, of an intoxicated or disorderly person from the premises.

122. SUPERVISION, ETC., OF BUSINESS.

A publican, the holder of a limited hotel licence or a tavern-keeper who, except as provided in this Act—

- (a) leaves the licensed premises without—

- (i) his management or superintendence; or
- (ii) the management or superintendence of some responsible manager duly appointed by him (written notice of which has been given to the Inspector),

for longer than 48 hours without the permission of the Commission or the Inspector; or

- (b) absents himself from the management and superintendence of the business carried on under the licence for a longer period than 14 days without the written permission of the Commission; or
- (c) permits an unlicensed person to be in effect the keeper of the licensed premises,

is guilty of an offence.

Penalty: A fine not exceeding K100.00.

123. FAILURE TO SUPPLY MEAL OR ACCOMMODATION.

A publican who, without reasonable excuse (proof of which is on him), refuses to supply a meal or accommodation to—

- (a) a *bona fide* traveller; or
- (b) any other person *bona fide* and reasonably requiring it,

is guilty of an offence.

Penalty: A fine not exceeding K100.00.

124. EXHIBITION OF LIST OF CHARGES FOR MEALS, ETC.

(1) A licensee who fails to exhibit and keep exhibited in a prominent place—

- (a) a list of charges made for liquor, meals and sleeping accommodation—near the main entrance or booking office of the licensed premises; and
- (b) in the case of charges made for liquor—in each bar or other place where liquor is served or supplied,

is guilty of an offence.

Penalty: A fine not exceeding K20.00.

(2) In the case of premises the subject of a publican's licence or limited hotel licence, the licensee must show separately in the list of charges made for meals and sleeping accommodation the daily or other periodical charges made for full board and accommodation, and the charges made for accommodation alone and for part-board and accommodation.

(3) The holder of a publican's licence, tavern licence or restaurant licence who fails to keep readily available, during meal hours, to a member of the public desiring it—

- (a) at the booking office (if any); and
- (b) outside or at the doorway of the dining room,

a menu showing the meals offered at the time and the charges for those meals is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(4) Where the holder of a publican's licence, tavern licence or restaurant licence imposes—

- (a) a cover charge additional to the charge for a meal; or
- (b) a minimum charge for a meal,

he must include a statement to that effect in the list referred to in Subsection (3), whether or not entertainment of any sort is provided.

Penalty: A fine not exceeding K100.00.

125. STORAGE OF LIQUOR.

(1) Subject to this section, a licensee or other person authorized by or under this Act to be in possession of liquor for sale or other disposition in accordance with this Act must keep or store the liquor in a bar-room, liquor storeroom or other place approved for the purpose by the Commission at all times except when the liquor is under the direct supervision and control of the licensee or of an agent, manager or employee of the licensee.

Penalty: A fine not exceeding K100.00.

(2) It is not an offence against Subsection (1) for liquor to be kept or stored on premises the subject of a storekeeper's licence under such conditions as are approved by the Commission in relation to those premises.

(3) It is not an offence against Subsection (1) for a licensee or other person to keep or store liquor in a secure place on premises other than his licensed premises—

- (a) with the approval of—
 - (i) the Commission; or
 - (ii) the Inspector, or in the absence of the Inspector a commissioned officer of the Police Force; and
- (b) subject to any conditions imposed in the approval; and
- (c) if—
 - (i) the liquor is packed in unopened kegs, cases or other containers (not being bottles or cans); and
 - (ii) an accurate record of it is kept available for inspection by an Inspector or a commissioned officer of the Police Force at the place where it is stored and in the books of account of the licensee or of the other person, as the case may be.

126. PERMITTING CONSUMPTION ON STORE PREMISES, ETC.

The holder of a storekeeper's licence or bottle-shop licence who, with intent to evade the provisions of this Act—

- (a) takes or carries liquor; or
- (b) authorizes, empowers or permits a person to take or carry liquor,

out of or from the licensed premises of the licensee, for the purpose—

- (c) of being sold on his account or for his benefit; or
- (d) of being consumed in any other premises belonging to or hired, and used or occupied by the licensee,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

127. BENEFIT OF SALE OF LIQUOR FROM BOOTH LICENCE GOING TO PERSON OTHER THAN LICENSEE.

(1) Subject to Subsection (2), if liquor is sold under, or at, in or on premises the subject of, a booth licence for the benefit or profit of a person or body other than the licensee, the person who sells the liquor and the licensee are each guilty of an offence.

Penalty: A fine not exceeding K200.00.

(2) It is not an offence against Subsection (1) if, with the approval of the Commission, the benefit or profit is applied to or for the purposes of some charitable, sporting service or other lawful organization or purpose approved by the Commission.

128. OBSTRUCTION OF INSPECTORS, ETC.

A person who—

- (a) refuses or delays admittance to, or obstructs the entrance under this Act of—
 - (i) a member of the Commission; or
 - (ii) an Inspector; or
 - (iii) a person acting under the authority of the Commission or an Inspector; or
 - (iv) a member of the Police Force,
into any licensed premises; or
- (b) refuses to permit an Inspector or a member of the Police Force to make a search under this Act; or

- (c) directly or indirectly obstructs or hinders an Inspector or a member of the Police Force in the performance of his duties under this Act or in the execution of the powers vested in or conferred on him by this Act,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

129. OPENING OR CONSUMING LIQUOR IN STORE.

A person who purchases liquor from the holder of a storekeeper's licence or bottle-shop licence and consumes the liquor, or opens a bottle or vessel containing the liquor, on the licensed premises is guilty of an offence.

Penalty: A fine not exceeding K50.00.

130. FAILURE TO PAY FOR ACCOMMODATION OR LIQUOR.

(1) A person who, after being provided by a publican, the holder of a limited hotel licence or tavern-keeper with food and accommodation, or accommodation, on licensed premises, fails or refuses to pay a reasonable amount owing by him for food and accommodation, or accommodation, as the case may be—

- (a) within seven days after demand by the publican, the holder of a limited hotel licence or tavern-keeper; or
- (b) if no demand has been made—within 14 days after ceasing to be a lodger in the licensed premises,

is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding three months.

(2) A person who—

- (a) buys liquor from a publican, the holder of a limited hotel licence, a tavern-keeper or the holder of a storekeeper's or bottle-shop licence; and
- (b) refuses to pay for the liquor at the time of sale,

is guilty of an offence.

Penalty: A fine not exceeding K20.00.

131. PRETENDING TO BE LODGER, ETC.

A person who—

- (a) makes a false representation in order to obtain liquor outside trading hours; or
- (b) gives to a licensee a statement under Section 102(3) that is false or misleading in a material particular,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

132. PAYMENT OF WAGES ON LICENSED PREMISES.

A person (other than the licensee) who pays the wages of an employee, or permits them to be paid, at or on licensed premises is guilty of an offence.

Penalty: A fine not exceeding K50.00.

133. OFFENCES BY COMPANIES, ETC.

(1) A company that holds a licence or permit is—

- (a) liable for any offence against this Act in respect of the licence or permit as if it were a private person; and
- (b) subject to the same penalties, so far as they are capable of enforcement against a company.

(2) A manager or a director, secretary or employee of a company that holds a licence or permit or who commits an offence, or knowingly authorizes or permits an offence, in respect of the licence or permit is also liable for the offence.

134. OFFENCES BY JOINT LICENSEES OR PERMITTEES, ETC.

(1) Persons who, by virtue of Section 151, are joint licensees or joint holders of a permit are jointly and severally liable for any offence against this Act in respect of their licence or permit.

(2) A manager appointed under Section 151 who commits an offence, or knowingly authorizes or permits an offence, in respect of the licence or permit is also liable for the offence.

135. OFFENCE BY MANAGER OR EMPLOYEE, ETC.

(1) Anything that, if done by a licensee personally, would be an offence against this Act is also an offence if done by a manager or employee of the licensee, and the manager or employee may be punished accordingly.

(2) Where an offence against this Act from which the licensee derives a benefit or profit is committed on or in relation to licensed premises by a person other than the licensee, the licensee shall also be deemed to have committed the offence.

PART VII. – EVIDENCE, ETC.

136. PRESUMPTIONS.

In any proceedings for an offence against this Act–

- (a) until the contrary is proved, any liquid shall be deemed to be liquor; and
- (b) every separate sale or supply shall be deemed to be a separate offence.

137. EVIDENCE OF SALE AND CONSUMPTION.

(1) In proving the supply, sale or consumption of liquor for the purpose of proceedings in relation to an offence against this Act, it is not necessary to show that–

- (a) money actually passed; or
- (b) liquor was actually supplied or consumed,

if the court is satisfied that–

- (c) a transaction in the nature of a sale actually took place; or
- (d) a sale, supply or consumption of liquor was about to take place.

(2) Proof of consumption or intended consumption of liquor on licensed premises by a person other than the licensee is *prima facie* evidence that the liquor was sold by the licensee to that person.

(3) For the purpose of proceedings in relation to an offence against this Act, the delivery of liquor is *prima facie* evidence of the sale of that liquor and of money or other consideration having been given for that liquor.

(4) In proceedings under this Act, the burden of proving that the sale, supply or consumption of liquor on licensed premises was lawful is on the person alleging it.

138. PROOF OF LICENCE.

(1) In any proceedings under this Act against a person alleged to be the holder of a licence–

- (a) the production of the register of licences kept under this Act containing the entry of the fact of the issue or transfer of the licence to him; or
- (b) a certificate of the Chief Licensing Commissioner setting out that fact,

is *prima facie* evidence that he is or was the holder of the licence as alleged.

(2) In any proceedings under this Act against a person for selling, supplying or disposing of liquor without a licence, the onus of proof that the person is or was licensed is on him.

139. EVIDENCE OF UNLICENSED PREMISES.

The fact–

- (a) of a person other than a licensee—
 - (i) keeping up a sign, writing, painting or other mark in or near to his premises; or
 - (ii) having his premises fitted up with a bar or showcase fitted with bottles or casks or other containers of liquor, displayed so as to produce a reasonable belief that the premises are licensed for the sale of liquor or that liquor is sold on the premises; or
- (b) of there being on any premises more liquor than is reasonably required for the use of the persons residing in the premises,

is *prima facie* evidence of the unlawful sale of liquor by that person or each of those persons.

PART VIII. – MISCELLANEOUS.**140. SUPPLY OF LIQUOR TO INSPECTORS AND COMMISSIONERS ON DEMAND.**

Notwithstanding this Act, it is lawful for a licensee to supply, on demand, liquor to the Chief Licensing Commissioner or an Inspector for the purpose of the performance of his duties under this Act.

141. RESTRICTION OF TRADING HOURS.

Notwithstanding this Act, the Head of State, acting on advice, may, generally or in relation to a particular area, by notice in the National Gazette restrict the trading hours in relation to all licences or permits, or to a class of licences or permits, or prohibit or restrict the supply of any kind of liquor.

142. CLOSING OF LICENSED PREMISES IN CASE OF DISORDER.

(1) If–

(a) a riot or tumult happens or is expected to take place; or

(b) a breach of the peace or any disorder happens or is expected to take place in or near any licensed premises,

a District Court Magistrate, or District Officer or commissioned officer of the Police Force, may order that the holder of a publican's licence, limited hotel licence, tavern licence, club licence, storekeeper's licence or canteen licence–

(c) in a town or place where the riot or tumult happens or is expected to take place; or

(d) in an area of or near the place where the breach of the peace or disorder happens or is expected to happen,

to close the licensed premises or suspend or restrict the supply of liquor in or from the premises for such time as the Magistrate, District Officer or commissioned officer of the Police Force orders.

(2) A licensee who fails or refuses to obey an order under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(3) If a breach of the peace or any disorder happens or is expected to take place in or near any licensed premises, a licensee may close the premises, or suspend or restrict the supply of liquor in or from the premises.

(4) Where a licensee closes his premises or suspends or restricts the supply of liquor under Subsection (3), he must immediately notify an Inspector.

Penalty: A fine not exceeding K100.00.

143. ENTRY ON LICENSED PREMISES.

For the purposes of this Act, an Inspector or a commissioned officer of the Police Force may demand admittance into, and may enter into and search, any licensed premises, or any part of licensed premises, at any time by day or night, and if admittance is refused or delayed may break into the premises.

144. SEARCH OF UNLICENSED PREMISES.

(1) On sworn information by a commissioned officer of the Police Force or other credible person that he has reason to believe that liquor is sold or kept for sale by a person other than a licensee in a dwelling house described in the information, a justice may grant a special warrant in the prescribed form to a commissioned officer of the Police Force named in the warrant to enter and search the dwelling house by day or night.

(2) The officer named in a warrant under Subsection (1)–

- (a) may enter and search the dwelling house; and
- (b) if admittance is refused or delayed, may, with or without such assistants as he thinks necessary break into the dwelling house; and
- (c) may seize and remove all liquor found in the dwelling house and the vessels containing the liquor; and
- (d) may convey the liquor and the vessels to a safe place and, as soon as convenient, to the nearest District Court or to such place of safe-keeping as the Court appoints for the purpose.

(3) If the owner of liquor or vessels conveyed under Subsection (2) to a District Court or a place of safe-keeping–

- (a) does not appear before the Court within seven days after the seizure; or
- (b) does appear and does not prove to the satisfaction of the Court that the liquor was not in the dwelling house for the purpose of being illegally disposed of,

the Court may order the liquor and the vessels containing it to be sold, and after payment of the expenses of the sale the proceeds shall be paid to the Consolidated Revenue Fund.

145. POSSESSION OF INTOXICATING LIQUOR FOR ILLEGAL DISPOSAL, ETC.

(1) This section applies where intoxicating liquor is, or is reasonably suspected by a commissioned officer of the Police Force of being–

- (a) abandoned or left without being in the immediate custody of any person; or
- (b) in the possession of a person contrary to this Act; or

- (c) in the possession of a person for a sale or other disposal contrary to this Act,

in or on a vessel, vehicle, aircraft, premises or place.

- (2) For the purposes of the application of Subsection (1)–

- (a) where intoxicating liquor is in the possession of a person who is not a licensee in quantities greater than are, in the circumstances, reasonable for his own personal or other lawful use, the burden of proof that the liquor is not in his possession for sale or other disposal contrary to this Act is on that person; and

- (b) it is irrelevant that intoxicating liquor in the possession of a person is not his property or is in his possession for sale or disposal on behalf of another person.

(3) In a case referred to in Subsection (1), the commissioned officer of the Police Force may, without warrant–

- (a) by force and with assistants, if necessary, enter and search the vessel, vehicle, aircraft, premises or place, and anything in or on it; and
- (b) seize and remove all intoxicating liquor referred to in that subsection, together with the vessels and containers containing the liquor; and
- (c) convey the liquor, vessels and containers to a safe place and, as soon as convenient, to the nearest District Court or to such place of safe-keeping as the Court appoints for the purpose.

(4) If the owner of any intoxicating liquor, vessels or containers seized under Subsection (3)(b)–

- (a) does not appear before the Court within seven days after the seizure; or
- (b) does appear and does not prove to the satisfaction of the Court that the intoxicating liquor was not, at the time of the seizure–
 - (i) without lawful and reasonable excuse, abandoned or left without being in the immediate custody of some person; or
 - (ii) in the possession of a person for sale or disposal contrary to this Act,

the Court may order the liquor, vessels and containers to be sold, and the proceeds after payment of the expenses of the sale to be paid into the Consolidated Revenue Fund.

(5) A person who–

- (a) refuses to permit a commissioned officer of the Police Force to make a search under this section; or
- (b) directly or indirectly obstructs or hinders a commissioned officer of the Police Force in the performance of his duties under this section or in the execution of the powers vested in or conferred on him by this section,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

- (6) This section does not—
- (a) restrict the operation of Section 144; or
 - (b) apply to or in relation to a dwelling-house to which that section applies.

146. POWER TO EXCLUDE INTOXICATED PERSONS, ETC.

(1) A licensee, or the manager or employee of a licensee, may refuse to admit into, or may turn out of, licensed premises a person—

- (a) who is intoxicated, violent, quarrelsome, indecent or disorderly; or
- (b) who is using disgusting, profane or foul language; or
- (c) whose presence on his premises would subject him to a penalty under this Act or any other law,

and for that purpose may use such reasonable force as is required.

(2) A licensee or his manager or employee may refuse to admit into, or may turn out of, the licensed premises, or any part of those premises, a person who is not suitably and cleanly dressed for those premises or for that part of the premises, as the case may be, and for that purpose may use such reasonable force as is required.

(3) Where, for the purposes of Subsection (2), a licensee imposes rules as to the standards of dress for any part of his premises at any time, the rules shall—

- (a) be reduced to writing and submitted to the Commission; and
- (b) be prominently displayed at or near the entrance to the licensed premises or the part of the licensed premises, as the case may be.

(4) The Commission may disallow a rule made under Subsection (3) and a rule so disallowed has no force or effect.

(5) A member of the Police Force shall, on the demand of the licensee, expel or assist in expelling a person referred to in Subsection (1) or (2), and for that purpose may use such reasonable force as is required.

(6) A person who refuses to quit the premises or resists removal under this section is guilty of an offence, in addition to any penalty to which he is liable under this or any other Act.

Penalty: A fine not exceeding K20.00.

147. POWER TO ALLOW CLOSING OF LICENSED PREMISES.

A member of the Commission, a District Court Magistrate, a District Officer or an Inspector—

- (a) may grant written permission to a licensee to close his premises on any day on account of pressing necessity; and

- (b) if he does so, shall forward a copy of the permission to the Commission.

148. PUBLICAN'S LIEN.

(1) A publican or the holder of a limited hotel licence has a lien over property brought by a person on to his licensed premises for the amount legally due for food and accommodation, or accommodation, as the case may be, provided for that person.

(2) If, after being provided with accommodation by a publican or the holder of a limited hotel licence, a person—

- (a) leaves the premises of the licensee without paying the amount legally due for food and accommodation, or accommodation, as the case may be, provided for him; and
- (b) leaves property on the premises for a longer period than two months without paying to the licensee or the holder of a limited hotel licence the amount due,

the licensee may, on application to a District Court, and with the sanction of the Court and after publication of such notice or notices as the Court directs, cause the property to be removed and disposed of by public auction.

(3) After deduction of the proper charges of the sale and of the maintenance of the property, the proceeds of a disposal under Subsection (2) shall—

- (a) be handed over to the Clerk of the Court that authorized the sale; and
- (b) to the extent of the amount due to the publican or the holder of a limited hotel licence, be paid to the publican or the holder of a limited hotel licence by the Clerk of the Court.

(4) The surplus (if any) remaining after the payment under Subsection (3)(b) shall be paid by the Clerk of the Court to the Secretary for Finance for the benefit of the owner of the property sold.

(5) If any amount paid to the Secretary for Finance under Subsection (4) is not claimed by the owner of the property sold within six years, it shall be paid to the Consolidated Revenue Fund.

149. DISTRAINER OF GUEST'S PROPERTY.

Except so far as it is liable to be disposed of under Section 148, the property of—

- (a) a lodger, guest or inmate in or of any premises in respect of which a publican's licence, or a limited hotel licence has been granted; or
- (b) a person who has entrusted such a lodger, guest or inmate with it,

that is on the licensed premises is not liable to be taken in execution or seized for or in respect of rent of the premises or of any other claims against the premises or the licensee or owner.

150. HOLDING OF LICENCES, ETC., BY COMPANIES.

(1) Subject to this Act, a company registered under a law relating to companies may become a licensee or the holder of a permit.

(2) Subject to Section 152, a company applying for the grant, renewal or transfer of a licence shall appoint a person approved by the Commission as its manager to directly represent it in the conduct of the licensed business, and the licence shall state the manager's name.

(3) On the application of the company and on payment of the prescribed fee, the Commission may substitute the name of another person as manager and amend the licence and records accordingly.

(4) When authorized by the company, a manager appointed under this section or a director, secretary or employee of the company, may, on behalf of the company—

- (a) give a notice; or
- (b) make an application; or
- (c) carry out a duty,

required in connection with a licence held by the company.

151. JOINT LICENSEES OR HOLDERS OF A PERMIT.

(1) Subject to this Act, two or more persons trading as a partnership may become joint licensees or holders of a permit.

(2) Subject to Section 152, when applying for the grant, renewal or transfer of a licence persons referred to in Subsection (1) may appoint a person, approved by the Commission, as a manager to directly represent them in the conduct of the licensed premises, and the licence shall state the manager's name.

(3) On the joint application of joint licensees or holders of a permit under this section and on payment of the prescribed fee, the Commission may substitute the name of another person as manager and amend the licence and records accordingly.

(4) When authorized by persons who are joint licensees or holders of a permit under this section, the manager may, on behalf of those persons—

- (a) give a notice; or
- (b) make an application; or
- (c) carry out a duty,

required in connection with a licence held by them.

152. APPOINTMENT OF MANAGER, ETC.

(1) Where by or under this Act there is provision for the appointment of a manager for a licensee, the appointment—

- (a) shall be notified to the Commission; and

(b) subject to Subsection (2), has no force or effect until approved by the Commission.

(2) Pending a decision by the Commission as to an appointment referred to in Subsection (1), an Inspector may grant interim approval of the appointment.

(3) Where by or under this Act there is provision for the appointment of a manager for a licensee, a deputy for the manager may be appointed in the same manner and subject to the same conditions as the manager, and during any absence from the licensed premises of the manager the deputy (if he is on, in or at, or in control of, the licensed premises) shall, for the purposes of this Act, be deemed to be the manager.

(4) After giving to the licensee and the manager or deputy an opportunity of appearing and being heard, the Commission may at any time withdraw its approval of the appointment.

153. WARRANT CARDS.

(1) The Commission shall issue warrant cards in the prescribed form to the Chief Licensing Commissioner, the Chief Licensing Inspector, the Licensing Inspectors and the Assistant Licensing Inspectors.

(2) The production by a person of a warrant card referred to in Subsection (1) is *prima facie* evidence that the person producing the card is the person named in the warrant card.

(3) A person who, without reasonable excuse (proof of which is on him), is in possession of a warrant card issued under Subsection (1) to another person is guilty of an offence.

154. REGULATIONS.

(1) The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular prescribing matters providing for or in relation to—

- (a) the rules of procedure for and in connection with applications, objections, hearings and other matters before the Commission; and
- (b) the forms of licences, certificates, authorities, permits and other documents and instruments issued or used under or for the purposes of this Act; and
- (c) the requirement by the Commission of returns by all or any licensees, showing details of the quantities and values of liquor, or of types of liquor, purchased or sold, and such other related information as is required by the Commission; and

- (d) the matters in relation to which fees are payable and the fees to be paid;
and
 - (e) the imposition of fines not exceeding K50.00 for offences against the regulations.
- (2) Regulations made under this section may be—
- (a) of general application; or
 - (b) limited in their operation to a particular area.

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