

THE LIQUOR PROCLAMATION, 1960
(No. 69 of 1960)
(Promulgated 23rd December, 1960)

as amended by

THE LIQUOR (AMENDMENT) LAW, 1961
(No. 10 of 1961)
(Promulgated 24th October, 1961)

and

THE LIQUOR (FURTHER AMENDMENT) LAW, 1961
(No. 18 of 1961)
(Promulgated 24th October, 1961)

and

THE LIQUOR (AMENDMENT) LAW, 1962
(No. 8 of 1962)
(Promulgated 29th May, 1962 and 21st October, 1963)

and

THE GENERAL LAW (REMOVAL OF DISCRIMINATION) REVISION LAW, 1964
(No. 28 of 1964)
(Promulgated 19th November, 1964)

and

THE LIQUOR (AMENDMENT) LAW, 1965
(No. 11 of 1965)
(Promulgated 15th October, 1965)

and

THE LIQUOR (AMENDMENT) LAW, 1966
(No. 28 of 1966)
(Promulgated 16th September, 1966)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)
ORDER, 1966**
(Legal Notice No. 84 of 1966)
(Commencement 30th September, 1966)

and

THE LIQUOR (FURTHER AMENDMENT) ACT, 1966

(No. 11 of 1966)

(Promulgated 21st December, 1966)

Reprinted by direction of the Attorney-General in terms of Section 3 of the
Amendments Incorporation Law, 1961, on 3rd February 1967.

BOTSWANA
No. 69 of 1960
(Promulgated 23rd December, 1960)

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER
Entitled the Liquor Proclamation, 1960

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PART I
PRELIMINARY

Short Title and Commencement.

1. (1) This Proclamation may be cited as the Liquor Proclamation, 1960, and, subject to the provisions of sub sections (2) and (3) hereof, shall come into operation on publication in the *Gazette*.

(2) Section *twenty-two* of this Proclamation shall come into operation on the 1st January, 1962.

(3) The President¹, by notice in the *Gazette*, may provide that the provisions of this Proclamation concerning applications for hotel liquor licences, club liquor licences and bottle store licences, the consideration of such applications and the issue of such licences shall, in the case of licences for the year 1961, be read and construed with such adaptations or modifications as may appear to the President¹ to be necessary or expedient for enabling effect to be given to these provisions.

Interpretation.

2. In this Proclamation, unless the context otherwise requires—

“appropriate fee” in relation to any matter means the fee specified in respect of such matter in the First Schedule to this Proclamation;

“bar” in relation to any licensed premises means any part of these premises in which liquor is consumed and —

(a) in which liquor is stored or exposed for sale; or

(b) in which there is an open drinking counter from which any part of the premises in which liquor is stored or exposed for sale is visible;

“bulk store-room” in relation to any licensed premises means a room on these premises used, in accordance with the provisions of sub section (1) of section *twenty-two*, for the storage of liquor in wholesale quantities.

“covering order” means an authority to sell intoxicating liquor granted under the provisions of section *eighteen* of this Proclamation;

“denatured spirits” means intoxicating liquor which by the addition of some substance has been rendered unpotable;

“disqualified person” means a person to whom, under the provisions of sub section (2) of section *sixty-two*, the possession of liquor except under permit is forbidden;

“duplicate original” in relation to a letter of exemption or permit, means an exact copy of the original letter of exemption or permit, bearing the original signature or signatures of a person or persons required to sign the original;

(1) Amended by L.N. 84/1966

“intemperate” means a person to whom, under the provisions of section *twenty-seven*, the possession of liquor except under permit is forbidden;

“kaffir beer” means —

- (a) beer brewed from sorghum-meal or a mixture of sorghum-meal and mealie-meal by the fermentation of malted sorghum, but excluding the liquors commonly known as “ila”, “kabidikamo” or “banyana”, or any beer brewed as described to which sugar, honey or syrup has been added or which is mixed with or fortified or adulterated by any other liquor or substance, or any other of the liquors commonly known as “khadi”; or
- (b) any other liquor which the President¹ may by notice in the *Gazette* declare to be kaffir beer for the purposes of this Proclamation;

“off-sales department” in relation to any premises licensed under an hotel liquor licence means a room on those premises used, in accordance with the provisions of sub section (2) of section *five*, for the sale of liquor for consumption off the licensed premises;

“intoxicating liquor” or “liquor” means spirits, wine, ale, beer, porter, cider, perry, or any other liquor of an intoxicating nature; but does not include kaffir beer;

“letter of exemption” means a letter of exemption given under the provisions of section *forty-six*;

“licence” means a licence issued under the provisions of this Proclamation; but does not include a provisional licence;

“licensed premises” means any premises in respect of which a licence is in force;

“licensee” means the holder of a licence and, where applicable, includes any person referred to in the second column in sub section (1) of section *seventeen*;

“licensing authority” means the licensing authority appointed in terms of section *2A*;²

“licensing officer” in relation to any district means any administrative officer for the time being present at the administrative headquarters of the district;

“meal” means substantial refreshment to which the sale of intoxicating liquor is ancillary;

“Minister” means the Minister for the time being responsible for commerce;³

“permit” means a permit to purchase and be in possession of liquor issued under the provisions of section *fifty-one*;

“permitted hours” in relation to the supply of intoxicating liquor to any person in any part of licensed premises means those hours of the day or night during

(1) Amended by L.N. 84/1966

(2) Amended by Law 11/1965

(3) Inserted by Law 11/1965

which intoxicating liquor may lawfully be supplied to that person in that part of those premises;

“prescribed” means prescribed by notice under section *sixty-five*;

“private land” means land title to which is registered in the Deeds Registry for Botswana;¹

“provisional licence” means a licence of which a provisional grant has been made under the provisions of section *fifteen* of this Proclamation but has not been declared final under the said section;

“President’s letter of exemption” means a letter of exemption issued under section *forty-eight*;

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

“selling” includes bartering; and

“spirits” means distilled liquors of any description and all mixtures, compounds and preparations made with such liquors, except fortified wines.

Appointment of Licensing Authority²

2A. (1) The Minister, by notice in the *Gazette*, shall appoint a licensing authority for the purposes of this Proclamation, and such appointment may be of a named person, of a person *ex officio* or of a named body of persons.

(2) No person or body of persons shall be qualified to hold an appointment in terms of this section if such person, or any member of any such body, as the case may be, holds or applies for any licence (including a provisional licence) issued under this Proclamation.

Non-application of Proclamation.

3. (1) Nothing in this Proclamation shall apply to —

(a) the sale or administration for purely medical purposes of any *bona fide* medicine containing intoxicating liquor;

(b) the sale of any spirituous or distilled perfume or perfumery, any methylated or otherwise denatured spirits, or any medicated wine;

(c) the sale of intoxicating liquor on any aircraft in flight over Botswana¹ in the course of a normal passenger service;

(d) on payment of the appropriate fee, to the sale of intoxicating liquor by a

(1) Amended by L.N. 84/1966

(2) Inserted by Law 11/1965

Railway Administration on any railway train in transit through Botswana¹ to any *bona fide* passenger thereon;

(e) the sale of intoxicating liquor within the precincts of the National Assembly in accordance with such conditions as may be approved by the Speaker.²

(2) The provisions of paragraph (a) of sub section (1) of section *nineteen* shall not apply —

(a) to the sale of intoxicating liquor by any person acting under the order of a court or selling any liquor forfeited to the State¹ under this Proclamation or any other law;

(b) to the sale by an executor, administrator, or trustee in insolvency, of any liquor which forms part of the estate of a deceased or insolvent person other than a licensee;

(c) to the sale of intoxicating liquor to the holder of any licence issued under this Proclamation by the holder of a Wholesale Distributor Licence issued under the Trading Proclamation (Chapter 108 of the Laws of Botswana¹) or any law hereafter substituted for the same;

(d) to the sale of intoxicating liquor, from any canteen approved for such purposes by the President¹, to members of the Botswana¹ Police or any of Her Majesty's armed forces.³

PART II

TYPES OF LICENCES

General.

4. (1) The following licences may be issued under this Proclamation:—

(a) Hotel Liquor Licences;

(b) Club Liquor Licences;

(c) Bottle Store Licences;

(d) Temporary Liquor Licences.

(2) Subject to the provisions of this Proclamation, all licences other than temporary licences shall continue in force until the thirty-first day of December next following the date of issue thereof.

(1) Amended by L.N. 84/1966

(2) Inserted by Law 28/1966

(3) Amended by Law 18/1961, 8/1962 and 28/1966

Hotel Liquor Licence.

5. (1) Subject to the provisions of this Proclamation, an hotel liquor licence shall authorise the sale, on the premises specified in the licence, for consumption on the premises, of intoxicating liquor in unsealed vessels or containers —

- (a) in or at a bar, between the hours of nine o'clock in the morning and eleven o'clock in the evening on any day other than a Sunday, Good Friday or Christmas Day; and between the hours of eleven o'clock in the morning and ten o'clock in the evening on any Sunday or Christmas Day; and¹
- (b) elsewhere than in or at a bar, between the hours of nine o'clock in the morning and eleven o'clock in the evening on any day other than a Sunday, Good Friday or Christmas Day; and between the hours of eleven o'clock in the morning and ten o'clock in the evening on any Sunday or Christmas Day; and
- (c) at any hour of the day or night, to any person taking a meal at the premises if the liquor is for consumption at the meal, and to any person lodging in the premises having registered as a guest in terms of section *thirty-seven*.

(2) An hotel liquor licence shall also authorise the sale, in a room on the licensed premises reserved exclusively for such purpose and separated from any adjacent part of the licensed premises by a substantial wall or partition containing no opening other than a substantial door capable of being securely locked, for consumption otherwise than in public on the premises, of intoxicating liquor in casks, sealed bottles, or other sealed vessels, between the hours of ten o'clock in the morning and seven o'clock in the evening on any day other than a Sunday, Good Friday or Christmas Day.

Club Liquor Licence.

6. Subject to the provisions of this Proclamation, a club liquor licence shall authorise the sale, on the premises specified in the licence, for consumption on the premises, of intoxicating liquor in unsealed vessels or containers to members of the club of which the licensee is nominee —

- (a) between the hours of nine o'clock in the morning and eleven o'clock in the evening on any day other than a Sunday, Good Friday or Christmas Day; and
- (b) between the hours of eleven o'clock in the morning and ten o'clock in the evening on any Sunday or Christmas Day.

Bottle Store Licence.

7. Subject to the provisions of this Proclamation, a bottle store licence shall

(1) Amended by Act 11/1966

authorise the sale, on the premises specified in the licence, for consumption off the premises, of intoxicating liquor in casks, sealed bottles, or other sealed vessels, between the hours of ten o'clock in the morning and seven o'clock in the evening, on any day other than a Sunday, Good Friday or Christmas Day.

Temporary Liquor Licence.

8. Subject to the provisions of this Proclamation, a temporary licence shall authorise the sale at any place of public assembly, on premises specified in the licence, of intoxicating liquor in unsealed vessels or containers for consumption on the premises, for a period not exceeding three days during which the assembly continues or for any less period specified in the licence, subject to such restrictions and conditions as to the hours during which intoxicating liquor may be supplied or otherwise as may be inserted in the licence.

PART III

ISSUE, ETC., OF LICENCES

Issue, Renewal, Transfer and Removal of Licences.

9. (1) Every application for the issue of a licence under this Proclamation shall be made in the prescribed form to a licensing officer in the district to which the application relates, and every such application except an application for a temporary liquor licence shall be referred by the licensing officer to the licensing authority.

(2) No application shall be referred to the¹ licensing authority in terms of the preceding sub section until evidence for and against the application has been recorded by the licensing officer at a licensing court held in terms of section *eleven*, the licensing authority has received the record and recommendation referred to in section *fourteen*, and the period referred to in sub section (2) of that section has expired.

(3) Except in so far as express provision to the contrary is made in this Proclamation, or the First Schedule, an application for the renewal of a licence shall be treated in all respects as an application for the issue of a new licence, an application for the transfer of a licence to a new licensee shall be treated in all respects as an application for the issue of a new licence to the transferee, and an application for the removal of a licence to new premises to be occupied by the same licensee shall be treated in all respects as an application by that licensee for the issue of a new licence in respect of the new premises.

(4) Where the¹ licensing authority consents to an application referred to

(1) Amended by Law 11/1965

him in terms of sub section (1) of this section or where a licensing officer consents to an application for a temporary liquor licence, the licence applied for shall be issued by the licensing officer on payment of the appropriate fee. Where such consent is given to the transfer of the licence to a new licensee or to the removal of a licence to new premises during the period of validity of the licence, the licensing officer on payment of the appropriate fee shall endorse the existing licence for use by the new licensee or for use at the new premises, as the case may be, for the remaining period of validity thereof.

(5) A person aggrieved by the refusal of the¹ licensing authority or licensing officer to consent to the issue of a licence under this Proclamation, or by any conditions he proposes to attach to the issue thereof, may, on payment of the appropriate fee, appeal to the President² whose decision shall be final.

Restriction on the Issue of Licences.

10. (1) No licence shall be issued to any person who is under the age of twenty-one years.

(2) Except with the consent of the President², no licence shall be issued to —

- (a) any person who does not reside in Botswana²;
- (b) any person whose licence has been forfeited, until after the expiration of five years from the date thereof;
- (c) any person who has been convicted of an offence under section *nineteen*, section *twenty-eight* or section *forty-four* of this Proclamation until after the expiration of five years from the date of the conviction; or
- (d) any person who has at any time been sentenced to imprisonment without the option of a fine for a term exceeding six months.

(3) No licence shall be issued to any company, society, partnership, or other association of persons:

Provided that nothing in this sub section shall be deemed to prevent the issue of a licence to the nominee of a company, society, partnership, or association, and where such a licensee ceases to be the nominee of the company, society, partnership, or association concerned, a new nominee of that company, society, partnership, or association may take such steps as may be necessary, under the provisions of this Proclamation, to have the licence transferred to himself.

(4) No club liquor licence shall be issued except to the nominee of a *bona fide* club which is managed by a committee responsible to the members assembled in general meeting and in which, by virtue of the Constitution and Rules thereof —

- (i) the committee holds regular meetings of which proper minutes are kept;

(1) Amended by Law 11/1965

(2) Amended by L.N. 84/1966

- (ii) only members of the club (including *bona fide* reciprocity members) are permitted to pay for accommodation or refreshment therein ;
 - (iii) no ordinary member of the club is elected less than fourteen days after nomination, or without his name having been screened on the club premises for at least seven days ;
 - (iv) the election of members is either by the committee or by all members of the club : Provided that the Rules of the club may disqualify from voting any member in arrear with any payments due to the club ;
 - (v) no person residing within ten miles of the club-house is eligible as an honorary or temporary member of the club save when such eligibility is granted by reason of that person holding some public office or being a *bona fide* candidate for membership or when that person is allowed the privilege of membership while engaged in any match or competition ;
 - (vi) a register of members and proper accounts are kept ;
 - (vii) the annual membership subscription (save in the case of *bona fide* country members) is at least R2 ;
 - (viii) the club consists of at least twenty members ; and
 - (ix) no profits from the sale of liquor by the club accrue to any individual save under some written agreement approved by the licensing authority.
- (5) No temporary liquor licence shall be issued to any person other than the holder of an hotel liquor licence.

Licensing Courts to be Held.

11. (1) Licensing courts for the hearing of applications in terms of sub section (2) of section *nine* shall be held by licensing officers during the first two weeks of the months of May and November, on such dates and at such places as may be notified by the Minister' by notice in the *Gazette*.

(2) Where, in his opinion, special circumstances exist, the Minister¹, by notice in the *Gazette*, may direct that a licensing officer shall hold a special sitting of a licensing court on such date and at such place as he may specify.

(3) No application shall be heard by such a court unless —

- (a) in the case of a sitting in the first two weeks of May, the application is lodged on or before the fifteenth of March ;
- (b) in the case of a sitting in the first two weeks of November, the application is lodged on or before the fifteenth of September ;
- (c) in the case of a special sitting, the application is lodged at least six weeks before the date of the sitting.

(1) Amended by L.N. 55/1965, 84/1966 and 94/1966

(4) Every *Gazette* notice issued in pursuance of sub section (1) or (2) hereof shall give details of all applications which are to be heard by the court at the sitting in question.

Objections and Reports.

12. (1) Any person who intends to oppose any application to be heard by a licensing court shall give notice in writing to the applicant and to the licensing officer of his intention, specifying the general grounds of his objection, at least fourteen days before the date of hearing of the application.

(2) At least fourteen days before the date of sitting of a licensing court —

- (a) the Commissioner of Police or a member of the Botswana' Police deputed by him for such purpose shall deposit at the licensing officer's office a written report on each application to be heard at the sitting, containing —
 - (i) a statement as to whether or not it appears that the issue of the licence would be contrary to the provisions of section *ten*, or to the public interest generally;
 - (ii) a statement of any facts known to the Police which are inconsistent with any information given by the applicant in making the application;
 - (iii) in the case of an application for a new licence or for the transfer of a licence to a new licensee a statement as to whether the applicant appears to be a fit and proper person to have the licence applied for and is known to be of good character and repute, and a statement as to what convictions (if any) have been recorded against the applicant;
 - (iv) in the case of an application for a new licence or for the removal of a licence to new premises a statement as to whether it appears that the locality or site of the proposed premises is suitable for the carrying on of the licensed business having regard to any law or regulations in force relating to town planning or to the siting or zoning of trades or businesses and otherwise; and a statement as to whether or not it appears that the value of the surrounding premises or property would be depreciated by the carrying on of the business or that the carrying on of the business would be a nuisance to persons residing in the neighbourhood; and
 - (v) in the case of an application for the renewal of a licence a statement as to the manner in which the licensed premises have been conducted during the current period of the licence, and the character of the persons who have frequented the premises during that period, and a statement as to what convictions (if any) were recorded against the applicant during the twelve months preceding the making of the report;

(b) the Director of Medical Services or a member of the Department of Medical Services deputed by him for such purpose shall deposit at the licensing officer's office a written report on each application to be heard at the sitting, containing a statement as to the sanitary condition and adequacy of the premises to which the application relates, and of the furniture, fittings, and equipment therein, and in the case of an application for a renewal licence a statement as to the manner of preparation and service of food and drink during the current period of the licence, having regard to the interests of hygiene and otherwise.

(3) Every report made in terms of the preceding sub section shall set forth in detail the facts on which any conclusions or expressions of opinion are based, and if the officer submitting the report is unable to supply any of the foregoing particulars he shall specially state in his report the reason for that inability.

(4) Every objection and report lodged in terms of this section shall be made available for public inspection during the usual hours of business at the licensing officer's office.

Procedure at Sitting of Licensing Court.

13. (1) At the hearing of an application by a licensing court —

(a) the officer who deposited a report on the application in terms of paragraph (a) of sub section (2) of section *twelve* shall appear and tender the report;

(b) the officer who deposited a report on the application in terms of paragraph (b) of sub section (2) of section *twelve* shall appear and tender the report;

(c) any person who gave notice of intention to oppose the application in terms of sub section (1) of section *twelve* shall then be entitled either in person or by his counsel or attorney to adduce evidence and to address the court in support of the grounds of his objection;

(d) when all objectors have been heard the applicant shall be entitled likewise to adduce evidence and address the court in support of his application.

(2) All witnesses at such a hearing (including any person making a report in terms of paragraph (a) or (b) of the preceding sub section) shall give evidence and may be cross-examined and re-examined as far as possible in accordance with the procedure in force in the subordinate courts of Botswana¹.

Provided that any person giving evidence at such a hearing regarding the financial position of his business or trade shall be entitled to disclose any relevant figures or accounts to the court only, and the court shall indicate to the other party (or parties) the general tenor of that evidence but shall not disclose those figures or accounts.

¹(1) Amended by L.N. 84/1966

(3) A licensing court shall have all such powers, rights and privileges as are vested in a subordinate court of the first class, in respect of the following matters :—

- (a) The enforcing of the attendance of witnesses and their examination on oath, affirmation or otherwise ;
- (b) the compelling of the production of documents ;
- (c) the punishment of persons guilty of contempt ;

and a summons signed by the licensing officer may be substituted for and shall be equivalent to any formal process capable of being issued by a subordinate court of the first class for enforcing the attendance of witnesses or compelling the production of documents.

Record and Recommendation of Licensing Court.

14. (1) The licensing officer shall correctly record all evidence adduced at a hearing (including the reports made in terms of paragraphs (a) and (b) of sub section (1) of section *thirteen*; but in the case of evidence referred to in the proviso to sub section (2) of that section, shall record the general tenor thereof and not any figures or accounts) and, within fourteen days of the conclusion of the hearing, shall forward a copy of the record of the evidence so recorded to the licensing authority together with his recommendation in regard to the application.

(2) For a period of fourteen days commencing on the fourteenth day after the conclusion of such a hearing the licensing officer shall cause a copy of the record and recommendation forwarded to the licensing authority in terms of the preceding sub section to lie for public inspection at his office. During this period the applicant or any person who opposed the application at the hearing may make written representations to the licensing authority in regard to that record or recommendation.

(3) The licensing authority on receipt of a record and recommendation in terms of this section may, after the expiration of the period referred to in the preceding sub section and if he sees fit, cause the applicant or any other person to appear before him to give evidence or to produce some document (and the licensing authority shall have all such powers, rights and privileges as are referred to in sub section (3) of section *thirteen*).

Provisional Grant of Licence.

15. (1) Where the licensing authority is satisfied, in considering an application for the issue or removal of any hotel liquor licence, club liquor licence, or bottle store licence, in respect of or to any premises about to be constructed or in the course of construction, that, if the proposed premises were completed in accordance with plans thereof submitted to him by the applicant, he would consent

to the issue or removal of a licence of the type applied for, the licensing authority may make a provisional grant of a licence in respect of those premises.

(2) A licence of which provisional grant has been made shall not be of effect until the licensing authority has declared the grant final, but the provisional grant shall continue in force for such period as the licensing authority may allow, and if not declared to be final by the end of that period shall expire.

(3) A licensing authority shall declare a provisional grant final on being satisfied —

(a) that the premises have been completed in accordance with the plans deposited; and

(b) that the grantee has not become disqualified under this Proclamation or any other law from holding a licence.

(4) No fee shall be payable upon the provisional grant of a licence but the appropriate fee for the licence shall be paid upon the declaration of the provisional grant as final.

Extension of Permitted Hours.

16. (1) A licensing officer, on any special occasion and upon payment of the appropriate fee, may grant an extension of the hours during which intoxicating liquor may be sold on licensed premises.

(2) No such extension shall be granted for a period exceeding three hours.

Continuation of Licence in Event of Death, etc.

17. (1) In any of the cases mentioned in the first column hereunder the persons set opposite thereto respectively in the second column hereunder may, for the unexpired period covered by the licence, carry on business thereunder:—

Death of the.....	the legal representative of the deceased licensee;
-------------------	--

insolvency or assignment of the estate of the licensee	the trustee or assignee;
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where the licensee falls under any civil disability.....	the legal representative of the licensee.
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(2) The provision of this section shall not apply where the licensee in question is a nominee.

Covering Orders.

18. (1) Where an application has been made for the transfer of a licence to a new licensee, the licensing officer, on the application of the proposed transferee joined, except where the licensee and the proposed transferee are nominees of the same company, society, partnership or association, by the licensee, may on payment of the appropriate fee grant temporary authority (hereinafter referred to as a "covering order") to the proposed transferee to sell liquor under the licence in substitution for the licensee, until the application for the transfer has been determined.

(2) All the provisions of this Proclamation relating to licensees shall, while a covering order is in force, apply to the person to whom the order has been granted as they apply to a licensee.

(3) A licensing officer to whom application is made for a covering order may require the applicant to produce evidence in support of the application, orally or by affidavit, and may examine on oath or affirmation the applicant or any person so giving evidence before him.

(4) Unless the licensing officer otherwise directs, no application for a covering order shall be made unless the applicant, not less than forty-eight hours before so doing, has given notice in writing to the officer in charge of police in the area in which the licensed premises are situate, signed by the applicant or his authorised agent, and stating the applicant's full name and address and his trade or calling during the six months preceding the giving of the notice.

(5) The licensing officer by whom a covering order is granted shall endorse a memorandum of the order on the licence.

PART IV

DEALINGS WITH LIQUOR

Selling Liquor Except Under Authority of a Licence.

19. (1) Subject to the provisions of this Proclamation, no person —

(a) shall sell any intoxicating liquor without holding a licence authorising him to sell such liquor; or

(b) being a licensee, shall sell any intoxicating liquor —

(i) elsewhere than on the licensed premises; or

(ii) in any part of the licensed premises in which the sale is not authorised to take place.

(2) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R600, or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

Sale, etc., of Liquor to be During Permitted Hours.

20. (1) Subject to the provisions of this Proclamation —

- (a) no licensee shall supply intoxicating liquor to any person on licensed premises except during the permitted hours;
- (b) no licensee shall allow any person to consume intoxicating liquor on licensed premises except during the permitted hours for the supply of that liquor to that person or within fifteen minutes thereafter;
- (c) no person shall consume intoxicating liquor on licensed premises except during the permitted hours for the supply of that liquor to that person or within fifteen minutes thereafter.

(2) Nothing in the preceding sub section shall prohibit or restrict the supply of intoxicating liquor for consumption on premises licensed under an hotel liquor licence to any private friends of the licensee *bona fide* entertained by him at his own expense, or the consumption of intoxicating liquor by persons so supplied.

(3) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

Importation, Exportation and Manufacture of Liquor.

21. (1) No person shall import into Botswana¹ any intoxicating liquor except under the authority of a permit in the prescribed form issued by the licensing officer of the district to which the liquor is consigned.

(2) No person shall export from Botswana¹ any intoxicating liquor except under the authority of a permit in the prescribed form issued by the licensing officer of the district from which the liquor is to be exported.

(3) No person shall manufacture or in any way produce intoxicating liquor in Botswana¹ except under the authority of a permit in the prescribed form issued by the licensing officer of the district in which the liquor is manufactured or produced.

(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R600, or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

(1) Amended by L.N. 84/1966

Storage of Liquor in Wholesale Quantities.

22. (1) The holder of an hotel liquor licence, club liquor licence or bottle store licence shall not keep wholesale quantities of intoxicating liquor on the licensed premises elsewhere than in a room which is reserved exclusively for such purpose and which is separated from any adjacent part of the licensed premises by a substantial wall or partition containing no opening other than a substantial door capable of being securely locked.

(2) The holder of an hotel liquor licence or bottle store licence shall keep a register of all liquor put into the bulk store-room and shall not remove intoxicating liquor from the bulk store-room unless details of the quantity and type of liquor removed and the purpose for which the removal is made are entered in the same register and, in the case of spirits, unless every vessel or container thereof has written, printed or stamped upon it, or upon an adhesive label firmly affixed to it, in such a manner as clearly to be legible, a description of the contents thereof and the name and address of the licensee.

(3) The holder of an hotel liquor licence or bottle store licence shall retain every register kept in accordance with the provisions of this section for a period of two years after its completion, and shall at all reasonable times permit the inspection of all such registers in his possession by any member of the Botswana¹ Police of or above the rank of Inspector.

(4) Any licensee who contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R600, or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

Delivery of Liquor.

23. (1) The holder of an hotel liquor licence or bottle store licence shall not, in pursuance of a sale by him of intoxicating liquor for consumption off the licensed premises, deliver the same to the purchaser (or to any person on behalf of the purchaser) either at the licensed premises or elsewhere unless he —

- (a) enters in a register and an invoice —
 - (i) the date and time of the removal of the liquor from the licensed premises;
 - (ii) the quantity, description and price of the liquor;
 - (iii) the name and address of the person to whom the liquor is supplied;
 - (iv) the name of the person (if any) who is to deliver the liquor on behalf of the licensee, or who is taking delivery of the liquor on behalf of the liquor on behalf of the purchaser;
 - (v) the name and address of the licensee; and
 - (vi) where the liquor is supplied under letter of exemption or permit the date and number thereof;

¹(1) Amended by L.N. 84/1966

- (b) signs the register entry and the invoice; and
- (c) delivers the invoice to the purchaser of the liquor, or to the person (if any) who is to deliver the liquor on behalf of the licensee or who is taking delivery of the liquor on behalf of the purchaser.

(2) The holder of an hotel liquor licence or bottle store licence shall not, in pursuance of a sale by him of spirits for consumption off the licensed premises, deliver the same to the purchaser (or to any person on behalf of the purchaser) either at the licensed premises or elsewhere unless before the spirits are removed from the licensed premises every container thereof has written, printed or stamped upon it, or upon an adhesive label firmly affixed to it, in such a manner as clearly to be legible, a description of the contents thereof and the name and address of the supplier.

(3) The holder of an hotel liquor licence or bottle store licence shall not, in pursuance of a sale by him of intoxicating liquor for consumption off the licensed premises —

- (a) carry that liquor away from the licensed premises unless the invoice referred to in sub section (1) hereof accompanies the liquor; or
- (b) deliver that liquor elsewhere than at the address shown in the invoice.

(4) The holder of an hotel liquor licence or bottle store licence shall retain every register kept in accordance with the provisions of this section for a period of two years after its completion, and shall at all reasonable times permit the inspection of all such registers, and of any manifold books which may be in his possession having been or to be used for the issue of invoices as aforesaid, by any member of the Botswana¹ Police of or above the rank of Inspector.

(5) Any holder of an hotel liquor licence or bottle store licence who contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R600, or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

Removal of Spirits Between Districts.

24. (1) Subject to the provisions of the next succeeding sub section, no person shall carry in any vehicle or receptacle, while in use for the removal of spirits from one district to another, any quantity of spirits in excess of two gallons except under the authority of a permit in the prescribed form issued by a licensing officer in the district to which the liquor is being removed or by any other licensing officer with the authority of a licensing officer in the district to which the liquor is being removed, and unless that permit accompanies the liquor.

¹(1) Amended by L.N. 84/1966

(2) Nothing in this section shall apply to the removal of spirits to or from a district in transit between two other districts under the authority of a permit issued in terms of the preceding sub section or for the removal of spirits to or from a district in the course of their importation into or exportation from Botswana¹ under the authority of an import permit or export permit, as the case may be, issued under the provisions of section *twenty-one*.

(3) Any person who contravenes the provisions of sub section (1) of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R600, or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

Consumption of Liquor in Sealed Containers.

25. Where a person, having purchased intoxicating liquor from —

- (a) premises licensed under a bottle store licence, drinks that liquor on the licensed premises or in any nearby premises which are under the licensee's control;
- (b) the off-sales department of any premises licensed under an hotel liquor licence, drinks that liquor in public on the licensed premises or in any nearby premises which are under the licensee's control;

then, if that drinking is with the knowledge or consent of the licensee, the licensee shall be guilty of an offence and liable on conviction to a fine not exceeding R100¹ or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

Removal of Liquor from Licensed Premises in Evasion of Proclamation

26. If the holder of any licence issued under this Proclamation, with intent to evade any of the provisions of this Proclamation, takes or allows any person to take any intoxicating liquor from the licensed premises for the purpose of its being sold on that licensee's account or for his benefit or profit, then that licensee shall be guilty of an offence and liable on conviction to a fine not exceeding R600, or, in default of payment thereof to imprisonment not exceeding two years, or to both such fine and imprisonment.

Intemperates.

27. (1) A District Commissioner after considering such representations there-to as the person concerned may wish to make, may by order in writing forbid the possession of liquor except under permit to any person resident in his district

⁽¹⁾ Amended by L.N. 84/1966

who, within the space of three months, and in any district in Botswana¹, has thrice been convicted of any offence of which drunkenness is an element or committed under the influence of drink or who, having been twice so convicted, has also within that period been convicted of assault; or to any person so resident who, the District Commissioner is satisfied, is, by excessive drinking of liquor, mis-spending, wasting or lessening his estate or greatly impairing his health or endangering the peace or well-being of his family.

(2) Every such order shall be of force throughout Botswana¹ for such period not exceeding twelve months as the District Commissioner making the order determines, but may at any time, for good cause, be revoked by the District Commissioner who made the order.

Supply of Liquor to Disqualified Persons or Intemperates.

28. (1) Any person who, except under the authority of a permit —

(a) supplies intoxicating liquor to a person whom he knows or has reason to believe to be a disqualified person or an intemperate; or

(b) procures or attempts to procure intoxicating liquor for a person whom he knows or has reason to believe to be a disqualified person or an intemperate;

shall be guilty of an offence and liable on conviction to a fine not exceeding R600 or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

(2) Any disqualified person or intemperate who, except under the authority of a permit —

(a) is in possession of intoxicating liquor; or

(b) acquires or attempts to acquire intoxicating liquor for himself;

shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

Restriction on Sale, etc., of Liquor to Children or Young Persons.

29. (1) A licensee shall not deliver intoxicating liquor to any person, other than a member of his family, whom he knows or has reason to believe to be under the age of fourteen years.

(2) A licensee shall not sell to any person intoxicating liquor to be consumed on the licensed premises by a person whom he knows or has reason to believe to be under the age of eighteen years.

(1) Amended by L.N. 84/1966

(3) A person under the age of eighteen years shall not buy or attempt to buy in licensed premises intoxicating liquor to be consumed by him on the premises.

(4) No person shall buy or attempt to buy in licensed premises intoxicating liquor for consumption on those premises by a person under the age of eighteen years.

(5) Nothing in sub sections (2), (3) and (4) of this section shall prohibit the sale to or purchase by a person who has attained the age of sixteen years of intoxicating liquor other than spirits for consumption at a meal in a part of the premises which is usually set apart for the service of meals and is not a bar.

(6) A licensee shall not allow a person whom he knows or has reason to believe to be under the age of eighteen years to enter and remain in any bar on the licensed premises.

(7) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

Adulterating Liquor, etc.

30. Any licensee who —

- (a) dilutes or adulterates any liquor for sale; or who
- (b) sells from or keeps for sale in a cask, vessel or other container bearing the mark or label of any manufacturer or distributor of intoxicating liquor, any intoxicating liquor other than liquor which in all respects corresponds to the mark or label;

shall be guilty of an offence and liable on conviction to a fine not exceeding R200, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

PART V

CONDUCT OF LICENSED PREMISES

Disqualified Persons and Intemperates Not to be Employed in Bottle Stores or Bars.

31. (1) No disqualified person or intemperate shall be employed in premises licensed under a bottle store licence, or in the off-sales department of premises licensed under an hotel liquor licence, or in any bar on licensed premises while the bar is open for the sale or consumption of intoxicating liquor.

(2) A licensee who employs a disqualified person or intemperate in contravention of the provisions of the preceding sub section shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

(3) For the purposes of this section, a person employed in licensed premises shall not be deemed to be employed in any off-sales department or bar therein by reason only that in the course of his employment in some other part of the premises he enters the off-sales department or bar for the purpose of giving or receiving messages or of passing to or from some other part of the premises to or from which there is no other convenient means of access or egress.

Licensee Not to Permit Drunkenness, etc.

32. (1) Any licensee who permits drunkenness or any violent or riotous conduct to take place on the licensed premises shall be guilty of an offence and liable on conviction to a fine not exceeding R200, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

(2) Any licensee who sells intoxicating liquor to or for consumption on the licensed premises by any person who appears to be in a state of intoxication shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

Power to Exclude Drunkards, etc., From Licensed Premises.

33. (1) Without prejudice to any other right to refuse a person admission to premises or to expel a person from premises, a licensee or his manager, agent or servant may refuse to admit to, or may expel from, the licensed premises any person who is drunk, violent, or disorderly, or whose presence in his premises would subject the licensee to a penalty under this Proclamation or any other law.

(2) If a person liable to be expelled from licensed premises under the provisions of this section is requested by the licensee, his manager, agent or servant, or by any member of the Botswana¹ Police, to leave the premises, and that person fails to leave the premises forthwith he shall be guilty of an offence and liable on conviction to a fine not exceeding R20, or, in default of payment thereof to imprisonment not exceeding fourteen days.

(1) Amended by L.N. 84/1966

Permitting Licensed Premises to be a Brothel or Resort of Prostitutes.

34. If a licensee permits the licensed premises to be a brothel or to be the habitual resort or place of meeting of reputed prostitutes, he shall be guilty of an offence and liable on conviction to a fine not exceeding R200, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine or to both such fine and imprisonment.

Observance of Conditions of Licence.

35. If a licensee acts in contravention of or fails to comply with any condition on or subject to which the licence was issued, he shall be guilty of an offence and liable on conviction to a fine not exceeding R100 and in the case of a continuing offence to an additional fine not exceeding R10 for every day during which the offence continues:

Provided that the court, if it thinks fit, may fix a reasonable period from the date of conviction for compliance with the condition in question; and where the court has fixed such a period the daily penalty shall not be recoverable in respect of any day before the expiration thereof.

Particulars to be Affixed to Premises, etc.

36. (1) Every licensee, other than the holder of a temporary licence, shall —

(a) keep painted on or affixed to a conspicuous place on the outside of the licensed premises, his name and after the name the word "licensed" followed by words sufficient to express the business for which the licence is granted; and

(b) display his licence on the licensed premises in a prominent position and so as easily to be read.

(2) A person who is not a licensee shall not have on his premises words or letters importing that he is a licensee.

(3) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R10 for every day during which the offence continues.

Hotel Registers.

37. (1) Every holder of an hotel liquor licence shall keep a register which shall contain the following details in respect of every guest taking a room in the hotel:—

- (a) Arrival date;
- (b) name in full of guest;
- (c) signature of guest;
- (d) permanent address;
- (e) address to which proceeding; and
- (f) nationality.

(2) Every holder of an hotel liquor licence shall —

- (a) present the register referred to in the preceding sub section to every guest who proposes to stay at the hotel, and request the guest to write therein his name and other particulars required; and
- (b) at all reasonable times permit the inspection of that register by any member of the Botswana' Police of or above the rank of Inspector.

(3) Any holder of an hotel liquor licence who fails to comply with the provisions of sub section (1) of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R10 for every day during which the offence continues.

(4) Any holder of an hotel liquor licence who fails to comply with the provisions of sub section (2) of this section and any guest at an hotel who fails on request by the licensee or his manager, agent or servant to write his name and particulars in the register, and any such guest who makes in any such register a statement or entry knowing the same to be false, shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

Hotel Keeper to Provide Meals and Accommodation and to Keep Bar Open.

38. (1) The holder of an hotel liquor licence shall not fail or refuse, except with good and sufficient cause, to —

- (a) supply at reasonable charges to any person demanding the same —
 - (i) accommodation, at any hour of day or night;
 - (ii) meals (or other food) appropriate to the time of day between the hours of seven thirty o'clock in the morning and ten o'clock in the evening;
- and

(b) have a bar on the licensed premises open for the sale of liquor between the hours of ten thirty o'clock in the morning and two o'clock in the afternoon and between the hours of four thirty o'clock in the afternoon and nine o'clock in the evening on all days except a Sunday, Good Friday or Christmas Day.

(2) Any holder of an hotel liquor licence who contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

Prohibition of Carrying on any Other Business on Licensed Premises.

39. (1) No licensee except with the written consent of a licensing officer shall carry on, on the licensed premises any business other than business connected with the conduct of an hotel or restaurant or any business which he is authorised to carry on on the licensed premises under the provisions of this Proclamation.

(2) Any licensee who carries on any business in contravention of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R10 for every day during which the offence continues.

Sale of Tobacco, etc.

40. Notwithstanding the provisions of any law to the contrary, the holder of an hotel liquor licence, club liquor licence, or temporary liquor licence may on the licensed premises and during the permitted hours carry on the business of selling snacks and light refreshments, tobacco, tobacco products, smokers' requisites, soft drinks, mineral waters, sweets and chocolates.

Prohibition of Making Structural Alterations to Licensed Premises Without the Consent of the Licensing Authority.

41. (1) No structural alteration or addition to premises and no material alteration in the internal arrangements of premises, licensed under this Proclamation, shall be made except with the written approval of the licensing authority.

(2)¹ The licensee of any premises which are altered contrary to the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding ten rand, and, in the case of a continuing offence, to a further fine not exceeding ten rand for every day during which the offence continues.

(1) Amended by Law 18/1961

Closing of Licensed Premises on Serious Breach of the Peace or Danger to the Public Health.

42. (1) If any serious breach of the peace occurs or is expected to occur, any Administrative Officer or member of the Botswana¹ Police of or above the rank of Assistant Superintendent may order any licensed premises in or near the place concerned to be closed for such period as he may think fit and any person carrying out such order may use such force as may be reasonably necessary for closing such premises.

(2) Where, in the opinion of the President¹, a danger to public health would otherwise be likely to be created thereon, he may order any licensed premises to be closed for such period as he may think fit.

(3) Any person who resists or obstructs an order given under this section shall be guilty of an offence and liable on conviction to a fine not exceeding R100. or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

PART VI

SPECIAL PROVISIONS RELATING TO AFRICANS

Limitation of Application of Part.

43. (1) The President¹ on application by a Chief may by notice in the *Gazette* declare that for the period the notice remains in force the provisions of this Part of the Proclamation shall not within that Chief's area of jurisdiction apply to such kinds of intoxicating liquor as he may specify in the notice.

(2) A notice issued under the provisions of the preceding sub section may be unlimited as to time or may be expressed to be in force for such period as may be specified therein.

(3) Notwithstanding the provisions of the preceding sub section the President¹ may at any time cancel any notice issued under the provisions of sub section (1) hereof.

Supply of Intoxicating Liquor to Africans.

44. (1) Subject to the provisions of sub section (2) of this section, no person shall supply intoxicating liquor to an African and no African shall have intoxicating liquor in his possession, except under the authority of a letter of exemption.

(1) Amended by L.N. 84/1966

(2) Subject to the provisions of section *forty-five* (which relates to the supply of intoxicating liquor to Africans as messengers) nothing in sub section (1) of this section shall apply to any intoxicating liquor supplied to or in the custody of an African in the normal course of delivery to some person entitled to have possession of the same.

(3) Any person who supplies intoxicating liquor to an African or who procures or attempts to procure intoxicating liquor for the purpose of supplying the same to an African in contravention of the provisions of sub section (1) of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R600, or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

(4) Any African who is in possession of intoxicating liquor or who acquires or attempts to acquire intoxicating liquor for himself in contravention of the provisions of sub section (1) of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

Supply of Liquor to Africans as Messengers.

45. (1) For the purposes of this section, "African" shall not include an African in possession of an unlimited letter of exemption within the area for which the letter is valid.

(2) No person shall employ or allow any African who is not a member of his family or in his *bona fide* regular employment to take delivery of intoxicating liquor on his behalf.

(3) No licensee shall supply to any African who is not in his *bona fide* regular employment intoxicating liquor for delivery to some other person, unless that African produces a written order for the same signed by the person to whom delivery is to be made.

(4) A person who contravenes any of the provisions of sub sections (2) and (3) of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R200, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

(5) No order given for the purposes of this section shall be valid unless it bears the name of the place at and the date on which it is signed and gives particulars of the description and quantity of liquor required and the name of the employee who is to take delivery thereof, and no such order shall be valid after the expiration of fourteen days from such date.

(6) Every order produced under the provisions of this section shall be retained by the licensee for a period of six months from the date on which the liquor was supplied and the licensee at all reasonable times during that period shall permit the inspection thereof by any member of the Botswana' Police of or above the rank of Inspector. A licensee who fails to comply with any of the provisions of this sub section shall be guilty of an offence and liable on conviction to a fine not exceeding R200, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

(7) Where a licensee supplies intoxicating liquor to an African who produces a written order purporting to be made in accordance with the provisions of this section, if the licensee knows or has reason to believe that the African producing the order is not the person referred to therein or is not a member of the family or in the *bona fide* regular employment of the person giving the order or that the signature on the order is not that of a person known to him to be entitled to purchase the liquor ordered, he shall be guilty of an offence and liable on conviction to a fine not exceeding R200, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

Letters of Exemption.

46. (1) A letter of exemption issued under this section may be either ---

(a) an unlimited letter of exemption, that is to say a letter of exemption which permits the holder, within the area for which in terms of sub section (2) hereof it is valid, to be supplied and to be in possession of all kinds of intoxicating liquor; or

(b) a limited letter of exemption, that is to say a letter of exemption which, within the area for which in terms of sub section (2) hereof it is valid ---

(i) permits the holder to purchase every calendar month such kinds and quantities of intoxicating liquor, in sealed bottles or other sealed vessels, as may be specified therein in pursuance of sub section (10) hereof, from a licensee to whom the duplicate original of the letter has been issued, on production of the letter to that licensee on the occasion of each separate purchase thereunder; provided that the licensee retains, during the validity of the letter, the said duplicate original; and

(ii) permits the holder to be in possession of liquor purchased by him under the authority of the letter.

(2) A letter of exemption shall be valid ---

(a) within the area of jurisdiction of the Chief who recommended (or concurred in) the issue of the same in terms of sub section (4) hereof; and

(b) within the area of jurisdiction of any other Chief who makes an endorsement thereon in terms of section *forty-seven*.

(3) An African wishing to purchase and be in possession of intoxicating liquor may apply in the prescribed form to the Chief having jurisdiction where he resides to recommend the issue to himself of a letter of exemption.

(4) The Chief shall consider every application made to him in terms of the preceding sub section and, in his discretion, may —

(a) recommend to the licensing officer that the applicant be issued with an unlimited letter of exemption; or

(b) recommend to the licensing officer that the applicant be issued with a limited letter of exemption; or

(c) refuse the application.

(5) The licensing officer shall consider every application in respect of which the Chief has made a recommendation in terms of paragraph (a) or (b) of the preceding sub section and —

(a) in the case of a recommendation in terms of paragraph (a) of the preceding sub section —

(i) may issue an unlimited letter of exemption to the applicant; or

(ii) with the concurrence of the Chief, may issue a limited letter of exemption to the applicant; or

(iii) may refuse the application;

(b) in the case of a recommendation in terms of paragraph (b) of the preceding sub section, may issue a limited letter of exemption to the applicant, or may refuse the application.

(6) Whenever a licensing officer issues a limited letter of exemption in terms of the preceding sub section he shall issue a duplicate original of the letter to a licensee nominated by the person to whom the letter is issued. If that licensee's licensed premises are not within the area of jurisdiction of the Chief who recommended (or concurred in) the issue of the letter of exemption, the licensing officer shall endorse on the letter and on the duplicate original thereof a statement drawing attention to the fact that the letter is of no force or effect until suitably endorsed in terms of section *forty-seven*.

(7) A licensing officer may at any time on the application or with the consent of the Chief revoke any letter of exemption issued by him by giving notice thereof to the holder of the letter and, in the case of a limited letter of exemption, to the licensee to whom the duplicate original of the letter was issued.

(8) Where a licensing officer refuses an application for a letter of exemption recommended to him by the Chief in terms of paragraph (a) or (b) of sub section (4) hereof, or refuses to revoke a letter of exemption on the application of the Chief in terms of sub section (7) hereof, or wishes to revoke a letter of exemption to the revocation of which the Chief has in terms of sub section (7) hereof refused to consent, he shall refer the matter to the licensing authority who shall review the matter and the licensing authority's decision thereupon shall be final.

(9) A letter of exemption and the duplicate original of a limited letter of exemption issued under this section shall be in the prescribed form and, subject to the provisions of sub section (7) hereof, every letter of exemption shall be of force for one year from the date of issue.

(10) The licensing authority after consultation with the Chief may from time to time define the kinds and quantities of intoxicating liquor to be specified in limited letters of exemption issued to Africans resident in that Chief's area of jurisdiction.

Endorsement of Letters of Exemption by Other Chiefs.

47. (1) An African in possession of a current letter of exemption issued in terms of the preceding section who wishes the letter to be made valid within the area of jurisdiction of some other Chief may apply to that other Chief to endorse the letter in respect of his area of jurisdiction.

(2) A Chief to whom an application is made in terms of the preceding sub section may in his discretion endorse the letter in respect of his area of jurisdiction, or refuse the application.

(3) Every endorsement made in terms of the preceding sub section shall be in the prescribed form and, in the case of a limited letter of exemption the duplicate original of which was issued to a licensee whose licensed premises are situate within the area for which the letter has been endorsed, the Chief shall give notice in the prescribed form to the licensee that the endorsement has been made.

President's' Letter of Exemption.

48. (1) Where in his opinion special circumstances make it desirable for him to do so the President' may issue a letter of exemption (referred to hereinafter as a President's' letter of exemption) to any African.

(2) A President's' letter of exemption shall be in writing and shall permit the holder throughout Botswana' to be supplied with and to be in possession of intoxicating liquor.

(3) A President's¹ letter of exemption shall be of force for the period specified therein.

(4) Notwithstanding the provisions of the preceding sub section the President¹ may at any time revoke any President's¹ letter of exemption by giving notice thereof to the person to whom the letter was issued.

PART VII

KAFFIR BEER

Manufacturing, etc., Kaffir Beer on Private Land².

49. (1) This section shall apply to private land situate outside the limits of any township constituted under the Townships Proclamation (Chapter 120 of the Laws of Botswana¹) or any law hereafter substituted for the same.

(2) On land to which this section applies no person shall manufacture or be in possession of kaffir beer in any quantity in excess of four gallons without the consent of the owner or occupier of the land, or of any manager or agent thereof

(3) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine or to both such fine and imprisonment.

Beer Hall Regulations.

50. (1) The President¹, by notice in the *Gazette*, may make regulations providing for —

- (a) the licensing of premises to be used for the sale of kaffir beer or for the manufacture of kaffir beer for sale, elsewhere than in a tribal territory;
- (b) the fees to be charged for such licences and the conditions under which such licences may be issued;
- (c) the construction of such premises and the provision of proper lighting and ventilation and adequate sanitary facilities therein;
- (d) the periodical cleansing and re-decorating of such premises;

(1) Amended by L.N. 84/1966

(2) Replaced by Law 8/1962

- (e) the inspection of such premises for securing that they are kept clean and in such a condition as not to endanger the public health, and for securing compliance with any conditions of a licence or the provisions of any law;
- (f) the standard or standards of purity and the methods of manufacture of the kaffir beer to be sold or manufactured therein;
- (g) the maximum price or prices at which kaffir beer shall be sold therein;
- (h) the hours during which such premises may be open and the hours during which kaffir beer may be sold and consumed therein, and the general conduct of such premises; and
- (i) the utilization for welfare work at the place where such premises are situated of any specified part of the profits derived from the sale or manufacture of kaffir beer on those premises and for the calculation of such part by reference to the quantity of beer sold or manufactured on those premises.¹

(2) The regulations may provide that any person who contravenes any provision thereof or who fails to comply with any order, requirement or condition lawfully issued to or imposed on him by virtue of any regulation and with which it is his duty to comply shall be guilty of an offence. The regulations shall specify what penalty may be imposed for each offence thereby created and may also provide different penalties in the case of successive or continuous offences but no such penalty shall exceed a fine of two hundred rand, or, in default of payment thereof, imprisonment for a period of six months, or such imprisonment without the option of a fine or both such fine and imprisonment.²

PART VIII

SUPPLEMENTARY

Issue of Permits.

51. (1) A licensing officer may issue to any disqualified person or intemperate who is resident within his jurisdiction, a permit in the prescribed form to purchase and be in possession of intoxicating liquor. Whenever a licensing officer issues such a permit he shall issue a duplicate original thereof to such licensee as the permit-holder may nominate

(2) A permit shall —

- (a) permit the holder to purchase every calendar month such kinds and quanti-

(1) Amended by Law 10/1961, and Law 28/1964

(2) Replaced by Law 18/1961

ties of intoxicating liquor, in sealed bottles or other sealed vessels, as the licensing officer may specify therein, from the licensee to whom the duplicate original of the permit has been issued, on production of the permit to that licensee on the occasion of each separate purchase thereunder; provided that the licensee retains, during the validity of the permit, the said duplicate original;

- (b) permit the holder to be in possession anywhere within Botswana of liquor purchased by him under the authority of the permit.

Licensee's Duty in Regard to Limited Letters of Exemption and Permits.

52. (1) Every licensee who sells intoxicating liquor under the authority of a limited letter of exemption or a permit shall in addition to complying with the provisions of section *twenty-three* —

- (a) forthwith enter or cause to be entered in ink on the appropriate part of the letter of exemption or permit and on the duplicate original thereof, an accurate statement of the kind and quantity of liquor supplied, the date and time of supply, and the signature of the person making the entry; and
- (b) return the letter of exemption or permit to the holder.

(2) Every licensee to whom is issued the duplicate original of a letter of exemption under section *forty-six* or of a permit under section *fifty-one* shall within five days after he receives notice of the cancellation of the letter of exemption or permit expires, as the case may be, return the duplicate original thereof to the licensing officer who issued the same.

(3) A licensee shall at all reasonable times permit the inspection of all duplicate original letters of exemption and permits in his possession by any member of the Botswana Police of or above the rank of Inspector.

(4) A licensee who makes default in complying with any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R200, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

Production of Letter of Exemption or Permit.

53. (1) A person to whom a letter of exemption or a permit has been granted, if requested by any member of the Botswana Police to produce that letter of exemption or permit for inspection, shall —

- (a) produce the letter of exemption or permit for inspection forthwith; or
- (b) forthwith declare to that member of the Botswana¹ Police his name and address, and produce the letter of exemption or permit for inspection by a member of the Botswana¹ Police within seven days of that demand.

(2) Any person who fails to comply with the provisions of the preceding subsection and any person who, for the purposes of paragraph (b) thereof, declares a false or inadequate name and address to a member of the Botswana¹ Police shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

Loss, etc., of Licence, Permit or Letter of Exemption.

54. If the licensing officer who issued any licence, permit or letter of exemption is satisfied as to the destruction, defacement or loss thereof he may on payment of the appropriate fee issue to the licensee a duplicate of the same.

False Statements.

55. Any person who wilfully makes or inserts any false statement in any form, book or other document required by this Proclamation shall be guilty of an offence and liable on conviction to a fine not exceeding R200, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

Forging Licences, etc.

56. Any person who —

- (a) forges any licence, permit or letter of exemption;
- (b) alters or erases any part of a licence, permit or letter of exemption or any entry lawfully made thereon;
- (c) produces or uses any forged licence, permit or letter of exemption which to his knowledge has been unlawfully altered, or from which erasures have been unlawfully made;
- (d) produces or uses any licence, permit or letter of exemption in the name of some other person, living or dead, or of a fictitious person;

shall be guilty of an offence and liable on conviction to a fine not exceeding R600, or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

(1) Amended by L.N. 84/1966

Departure of Guest From Licensed Premises.

57. (1) No person shall depart from licensed premises in which he has registered as a guest in terms of section *thirty-seven* unless he has paid his account for accommodation or has made arrangements with the licensee or his manager or servant whereby the account has been left in abeyance.

(2) A copy of this section and a copy of the tariff of charges applicable to the room in question shall be exhibited in such a manner as clearly to be read in every bedroom in licensed premises used for the accommodation of guests.

(3) A person who, having registered as a guest in licensed premises and having been accommodated in a room therein in which copies of this section and of the tariff of charges were exhibited in accordance with the preceding sub section, departs from those premises in contravention of sub section (1) of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

Meaning of "Possession".

58. For the purposes of this Proclamation a thing shall be deemed to be in the possession of any person —

- (a) if he has it in his personal custody or possession ;
- (b) if he knowingly and wilfully has it in the actual custody or possession of some other person, or in some building or place (whether owned or occupied by him or not) ; or
- (c) unless the contrary be shown, if it is found on any premises normally occupied by that person.

Evidence of Sale or Consumption of Liquor.

59. (1) Evidence that a transaction in the nature of a sale of intoxicating liquor took place shall, in any proceedings relating to an offence under the provisions of this Proclamation, be evidence of the sale of such liquor without proof that money passed.

(2) Evidence that consumption of intoxicating liquor was about to take place shall, in any such proceedings as aforesaid, be evidence of the consumption of intoxicating liquor without proof of actual consumption.

(3) Evidence that any person, other than the licensee of licensed premises or a servant employed in licensed premises, consumed or intended to consume intoxicating liquor in such premises shall in any such proceedings as aforesaid and unless the contrary be shown, be evidence that the liquor was sold by or on behalf of the licensee to that person.

Criminal Responsibility of Employer and Employee.

60. (1) Whenever the manager, agent or servant of a licensee does or omits to do anything which if done or omitted to be done by the licensee would be in contravention of some provision of this Proclamation, then except in the circumstances set out in sub section (2) of this section that licensee shall be deemed to have contravened that provision and shall be liable on conviction to the penalties therefor.

(2) The provisions of the preceding sub section shall not apply where —

- (a) in doing or omitting to do that thing the manager, agent or servant was acting without the licensee's knowledge, consent or connivance; and
- (b) all reasonable steps were taken by the licensee to prevent any act or omission of the kind in question: Provided that the fact that the licensee issued instructions forbidding any act or omission of the kind in question shall not, of itself, be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.

(3) A manager, agent or servant of a licensee who does or omits to do anything which if done or omitted to be done by the licensee would be in contravention of some provision of this Proclamation shall be deemed himself to have contravened the provision and shall be liable on conviction to the penalties therefor.

Cancellation of Permit or Letter of Exemption by Court.

61. Where the holder of a letter of exemption or permit is convicted of any offence of which drunkenness is an element or committed under the influence of drink, or of assault or any offence under this Proclamation, the court by whom he is convicted may cancel the letter of exemption or permit and shall cause written notice of the cancellation to be given to the licensing officer and also, where appropriate, to the licensee who holds the duplicate original thereof.

Forfeiture of Licence and Disqualification.

62. (1) Where any licensee who being convicted of an offence under this Proclamation is within the space of five years from the date of that conviction again convicted of an offence under this Proclamation, the court imposing the subsequent conviction may in addition to imposing any other lawful penalty order that the licensee shall forfeit his licence.

(2) Where any person who being convicted of an offence under —

- (a) section *nineteen* ;
- (b) section *twenty-eight* ;
- (c) section *forty-four* ; or
- (d) section *forty-five* ;

of this Proclamation is within a space of five years from the date of that conviction again convicted of an offence under the same section or any other of the foregoing sections the court in addition to imposing any other lawful penalty may order that the person convicted be disqualified for a period not exceeding five years from possessing intoxicating liquor except under permit.

Liquor and Vessels May be Forfeited to the State¹.

63. (1) Where any person is convicted of an offence under this Proclamation relating to intoxicating liquor or kaffir beer the court in addition to imposing any other lawful penalty may order that any intoxicating liquor or kaffir beer in respect of which the offence was committed and which was found in the possession of the accused and any vessel or container in which that liquor or kaffir beer is contained shall be forfeited to the State¹.

(2) Liquor, kaffir beer, vessels or containers forfeited to the State¹ in terms of this section shall be sold or otherwise disposed of as the court imposing the forfeiture may direct, and unless the President¹ otherwise directs the proceeds shall be applied as if they were a fine.

Temporary Licence Pending Appeal.

64. (1) Where on conviction of an offence a licence is forfeited and the person convicted appeals against the conviction, the court, in its discretion and on such conditions, if any, as it thinks just, may grant a temporary licence, without payment of fee to be in force until the appeal is determined or ceases to be prosecuted.

(2) A temporary licence granted under the provisions of the preceding sub section shall apart from any conditions imposed under the said sub section be of the same force and effect and be subject to the same conditions as the licence forfeited.

Power to Prescribe Forms, etc.

65. The President¹, by notice in the *Gazette*, may prescribe any matter which under any provision of this Proclamation (including the First Schedule) requires to be prescribed.

Exercise of Discretionary Powers Under this Proclamation.

66. Where under this Proclamation, any person or authority² is vested with a power to allow, give consent to, grant, or revoke any matter or thing, then, subject to the provisions of this Proclamation and to any directions of the President¹,

(1) Amended by L.N. 84/1966

(2) Amended by Law 11/1965

that person, with or without assigning any reasons and in his absolute discretion, may allow or disallow, give or withhold his consent to, grant or not grant, or revoke or not revoke that matter or thing as he thinks most conducive to the public good:

Provided that nothing in this section shall be construed as referring to any power vested under this Proclamation in any court.

Jurisdiction.

67. Notwithstanding the provisions of any law to the contrary subordinate courts of the first class shall have special jurisdiction to impose any of the penalties prescribed in this Proclamation or any regulations made thereunder.

Saving.

68. Nothing in this Proclamation shall be construed as derogating from any rule or order concerning intoxicating liquor or kaffir beer which may at any time be in force under the African Administration Proclamation (Chapter 67 of the Laws of the Bechuanaland Protectorate) or any law hereafter substituted for the same.

Repeal.

69. The laws set out in the Second Schedule to this Proclamation are hereby repealed.

Provided that any licence which was granted under any of the provisions of the laws repealed and which is in force at the commencement of this Proclamation shall have effect as if it has been issued under the provisions of this Proclamation.

GOD SAVE THE QUEEN

Given under my Hand and Seal at Pretoria this Twenty-first day of December, One thousand Nine hundred and Sixty.

C.R. LATIMER,
High Commissioner's Deputy.

FIRST SCHEDULE

(Section 2)

FEEs

The fees set out in the second column hereunder shall be paid in respect of the corresponding matters set out in the first such column —

1. Railway Administration Exemption Fee (section 3(2)(d))	R150
2. Issue of Licence:—	
(a) New hotel liquor licence	R80
(b) Renewal hotel liquor licence.....	R80 if the hotel is situate within an area prescribed by the President. Otherwise R150.
(c) New or renewal club liquor licence	R40
(d) New or renewal bottle store licence	R150
(e) Temporary liquor licence (section 9)	R2 per day or part thereof.
3. Transfer or removal of licence during its period of validity (section 9)	One-half the fee payable for the issue of a new licence of the kind in question.
4. Extension of permitted hours (section 16)	R2 per hour or part thereof.
5. Appeal to the President (section 9(5))	R20
6. Covering order (section 18)	One-quarter of the fee payable for the issue of a new licence of the kind in question.
7. Issue of a duplicate licence or permit (section 54)	25c.

SECOND SCHEDULE

(Section 69)

LAWs REPEALeD

The Liquor Licensing Act, 1883 (No. 28 of 1883 of the Colony of the Cape of Good Hope).

The Liquor Licensing Amendment Act, 1885 (No. 44 of 1885 of the Colony of the Cape of Good Hope).

The Liquor Proclamation (Laws of the Bechuanaland Protectorate, 1948, c.84).

The Bechuanaland Protectorate Liquor (amendment) Proclamation, 1952 (No. 9 of 1952).

The Bechuanaland Protectorate Liquor (Amendment) Proclamation, 1953 (No. 57 of 1953).