

# TRADE AND LIQUOR ACT, 1986

No. 29



of 1986

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**An Act to consolidate with amendments the enactments relating to trading and liquor licensing and other matters connected therewith.**

*Date of Assent:* 24.12.86

*Date of Commencement:* 31.12.86

**ENACTED** by the Parliament of Botswana.

### **PART I — Preliminaries**

**1. This Act may be cited as the Trade and Liquor Act, 1986.**

Short title

**2. In this Act, unless the context otherwise requires —**

Inter-  
pretation

**“authorised officer” means a person so designated under section 27 ;**

**“bar” includes any place exclusively or mainly used for the sale and consumption of intoxicating liquor;**

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

**“discotheque” is a place of entertainment with facilities for dancing to music and/or live entertainment;**

**“intoxicating liquor” means spirits, wine, beer, cider, and any other fermented, distilled or spirituous liquor but does not include traditional beer;**

**“off sales department” means a licensed premises for the sale of liquor for consumption off the licensed premises;**

**“permitted hours” in relation to the supply of liquor to any person in any part of licensed premises means the hours specified in the regulations during which intoxicating liquor may be lawfully supplied to that person;**

**“prescribed” means prescribed by regulations made under section 69;**

**“register” includes a card or computer record maintained in the normal course of business;**

**“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;**

**“sell” means to sell by retail or wholesale and, in addition to its ordinary meaning, means to barter exchange or offer or expose for sale;**

**“supermarket” means a self-service store selling within a large floor space a wide range of food items and general merchandise;**

“trade” means to carry on the business of selling goods and/or service;

traditional beer means —

- (a) beer brewed from sorghum-meal or a mixture of sorghum-meal and mealie-meal by the fermentation of malted sorghum, including unadulterated beer from wild fruit or berries, but excluding the liquor commonly known as “ila”, “kabidikama” or “banyana” or any beer brewed to which sugar, honey or syrup has been added or which is mixed with or fortified or adulterated by other liquor or substance, or any other liquor commonly known as “khadi”
- (b) any other beer which the Minister may by notice in the Gazette declare to be a traditional beer.

#### **PART II — *Licensing Authorities***

Establishment of National Licensing Authority

**3.** (1) There shall be a National Licensing Authority which shall consist of a chairman and such number of other persons as the Minister may by notice published in the Gazette appoint.

(2) The Minister may designate a public officer as a licensing officer who shall be secretary to the National Licensing Board.

Functions of the National Licensing Authority

**4.** The National Licensing Authority shall be responsible for —

- (a) the issue in accordance with the provisions of this Act of wholesale licences authorising the holder of such a licence to carry on business as a wholesaler of such goods or class or classes of goods as may be specified therein, exporters and importers licences hotel liquor licences, agents licences, auctioneers licences, external representatives licences, drillers licences and travel agents licences;
- (b) supervising the functions of local licensing authorities;
- (c) laying down principles to be followed by local licensing authorities in issuing licences; and
- (d) performing such other functions as may be conferred on it under this Act or regulations made thereunder.

Local licensing authority

**5.** (1) There shall be a Local Licensing Authority in each area of —

- (a) a City Council;
- (b) a District Council established under the Local Government (District Councils) Act; and
- (c) a Town Council or a Township established under the Townships Act.

(2) A Local Licensing Authority shall be a committee of the local authority.

Providing that such a licensing authority may co-opt such persons as the Minister may by regulations prescribed to advise the committee; such persons shall not be entitled to vote on any decision of the committee.

(3) The Council Secretary or Town Clerk as the case may be in the area of a Local Licensing Authority or his nominee shall be the licensing officer and secretary to the licensing authority.

6. A Local Licensing Authority shall be responsible for —

(a) the issue in accordance with the provisions of this Act, of a licence authorising the holder of such licence to trade or carry on such business as may be specified in this Act in the area of such licensing authority, other than those licences mentioned in paragraph (a) of section 4.

(b) performing such other functions as may be assigned to it under this Act.

Functions  
of local  
licensing  
authorities

### PART III — *Regulation of Business*

7. (1) Subject to the provisions of this section no person shall carry on any of these trades or businesses unless he is the holder of any of the following licences authorising him to carry on such trade or business —

1. Agents licence
2. Auctioneer licence
3. Pharmacy licence
4. Drillers licence
5. External Representative licence
6. Fresh Produce licence
7. General Dealers licence
8. Supermarket licence
9. Hairdressers licence
10. Petrol filling station licence
11. Restaurant licence
12. Travel Agents licence
13. General wholesalers licence
14. Specialized dealers licence
15. Specialized wholesaler licence
16. Motor dealers licence
17. Garage and workshop licence
18. Dry Cleaners and laundromat licence
19. Exporter/Importer licence

Trade/or  
Business  
licences  
required to  
be issued  
under this  
Act

(2) The provisions of subsection (1) shall not apply to a person who has been issued with a hawking or street vending licence under an enactment authorising him to carry on such trade or business as may be specified in the licence.

(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and on conviction therefor shall be liable to a fine not exceeding P2000 or imprisonment for a period not exceeding one year or both.

Applications

8. (1) An application for a licence shall be made in the prescribed form and tendered with the fee for publication of the application —

- (a) in the case of a licence, mentioned in paragraph (a) of section 4, to the National Licensing Authority; and
- (b) in any other case, to the licensing authority of the area in which the applicant proposes to carry on his trade or business.

(2) Where an application for a licence is granted, the applicant shall pay the appropriate licence fee at the time the licence is issued to him.

Notice or advertisement of application

9. On receipt of an application made under section 8, the licensing officer of the licensing authority to whom the application is made shall, as soon as practicable, publish or cause to be published a notice of the application in two separate issues of the Gazette and of a newspaper circulating in the area where the applicant intends to carry on the trade or business.

Objection to application

10. Where a notice of an application has been published in accordance with the provisions of section 9, any person who wishes to object to the issue of the licence to the applicant shall, within 14 days of the last publication of the notice, give notice in writing of his intention to oppose the application and the grounds thereof to the secretary and to the applicant.

Reference of application to licensing authority

11. After the expiration of the period specified in section 10 for lodging any objections, the secretary shall refer the application with the objections or representations, if any, to the licensing authority concerned for its consideration.

Consideration of applications by licensing authority

12. (1) Subject to subsection (2), a licensing authority shall meet at least once in each month of the year for the purpose of considering applications referred to it under section 10.

(2) A licensing authority shall cause to be published in the Gazette, a notice of the date, time and place fixed for the consideration of applications referred to it under section 10.

(3) Where an objection has been lodged under section 10 in respect of any application, the licensing authority in considering such application shall afford to both the applicant and the objector or their authorised representatives, counsel or attorneys, an opportunity of appearing before it and being heard by it or of making representations in writing to it with respect to the objection.

**13.** Subject to the provision of this section, a licensing authority shall, for the purpose of considering an application under section 12 have power —

Powers of licensing authorities in considering applications

- (a) to take evidence on oath or affirmation, and for that purpose, to administer oaths and affirmations;
- (b) to summon by notice in the prescribed form, any person to give evidence in respect of such application or to produce any book, plan or document relating thereto;
- (c) to make such investigation as may be necessary in order to ascertain any of the matters which a licensing authority is required to consider under section 14.

**14.** Subject to the provisions of sections 15 and 16, a licensing authority may refuse to issue a licence if it is satisfied —

General principles affecting issue of licences

- (a) that the applicant is a minor;
- (b) that the issue of such licence is likely to cause a nuisance or annoyance to persons residing, or occupying premises in the neighbourhood of the premises in respect of which the licence is sought;
- (c) that the premises on which the applicant intends to conduct his business does not conform to the requirements of any enactment;
- (d) that the issue of such licence would conflict with any approved or proposed town planning scheme or zoning area;
- (e) that the issue of such licence would operate against the public interest or public policy; or
- (f) that the applicant has already been issued with or applied for licences in respect of four or more fixed places of business under this Act and will only be considered if he has the written approval of the Minister to his application for a further licence.

**15.** A licensing authority may refuse to issue a licence to any person who —

General restrictions on power to issue licences

- (a) is an unrehabilitated insolvent;
- (b) has surrendered his estate for the benefit of his creditors;
- (c) has, within a period of two years immediately preceding the date of the application, been convicted of an offence involving dishonesty.

**16.** (1) Regulations may be made providing that licences to carry on such trades or businesses as may be prescribed shall be issued only to citizens of Botswana, or to companies wholly owned by citizens of Botswana.

Certain trades and business to be reserved for citizens

(2) Regulations made under this section may provide that only citizens of Botswana shall be entitled to carry on trade or transact business in such areas in the country as may be prescribed.

(3) Regulations may also provide that no person may be issued with licences in respect of four or more fixed places of business without the prior approval in writing of the Minister.

Licences  
restricted  
to fixed  
premises  
or areas

17. Regulations may provide that the holders of such licences as may be prescribed shall carry on their trade or their business only —

- (a) from prescribed premises; or
- (b) in prescribed areas of the country.

Issue of  
licences

18. Where an application is made in accordance with the preceding provisions of this Act the licensing authority concerned —

- (a) may authorise its licensing officer to issue to the applicant a licence containing such provisions as the licensing authority considers appropriate; or
- (b) may, if having regard to the provisions of this Act it considers it necessary or expedient to do so, refuse to issue a licence.

Duration  
and renewal  
of licences

19. (1) Subject to the provisions of this section, every licence issued under this Act shall unless previously renewed or revoked, expire at the end of the year in which it was issued.

(2) Any such licence, if it has not been revoked, shall on the application of the holder of the licence made before its expiry on the prescribed form and upon the payment of the appropriate fee and all outstanding fines be renewed by the licensing authority for a further period of one year from the date on which it would otherwise expire.

(3) On an application to the licensing authority for the renewal of a licence made after the expiry of the said licence the licensing authority may renew the licence for a period of one year subject to the payment of a penalty if the licence has expired less than one year before the date of the application.

(4) The penalty payable upon an application referred to in subsection (3) above shall be a sum equivalent to twice the fee that would have been payable for the period during which the licence had not been renewed.

(5) An application for the renewal of a licence that had expired over a year before the date of the application shall be treated as an application for a new licence.

**20.** (1) Where the holder of a licence under this Act is convicted of any offence under this Act or of any offence under the provisions of sections 321 to 324 or sections 379 and 380 of the Penal Code or of the Companies Act or of the Trade Marks Act or of the Patents and Designs Protection Act or of the Control of Goods, Prices and Other Charges Act, the court by which he is convicted may order the cancellation of any licence held by him after such period as the court may consider necessary for him to dispose of his existing stocks and may debar him from obtaining another licence for such period as the court thinks fit.

Cancellation  
of licences

Cap. 08:01

Cap. 68:03

Cap. 68:02

Cap. 43:07

(2) A court which ordered the cancellation of a person's licence or has debarred such a person from obtaining another licence may, if it thinks fit, suspend the operation of the order pending an appeal.

**21.** (1) The Minister may at any time withdraw, suspend or cancel a licence issued under this Act if, in his opinion, it is in the interests of the inhabitants of a particular area or of Botswana generally. In the event of the suspension of any licence, the Minister may order that such suspension continue until the holder of the licence has complied, to the satisfaction of the Minister, with such requirements as he may specify. Where a licence is withdrawn or cancelled, the Minister may in his discretion allow the licence-holder such time as he may consider necessary to enable the holder of the licence to dispose of his existing stocks. A licence-holder shall not be entitled to any refund of fees paid in respect of any licence that has been suspended, withdrawn or cancelled by the Minister in terms of this section. The Minister shall not be obliged to furnish reasons for any decision taken by him in terms of this section and such decision shall be final and shall not be questioned in any court.

Ministers  
Power to  
suspend or  
cancel  
licences

(2) A licensing officer may, with the prior approval of the licensing authority responsible for that trade or that area as the case may be, suspend the licence pending investigation by him or cancel the licence of any business —

- (a) which has not commenced operations within two years of the grant of the said licence; or
- (b) which has ceased to operate; or
- (c) which has commenced business on a licence obtained on false information given in its application.

**22.** (1) Except where the holder of a licence restricted to fixed premises conducts the licensed business personally, he shall appoint an approved person to be manager of the business.

Managers to  
be approved  
persons

(2) A person shall be an approved person for the purposes of this section if he is not disqualified under subsection (6) or if, being so disqualified, his appointment is approved by the local authority acting in its discretion.

(3) An approval of an appointment in terms of this section shall lapse if the approved person is convicted of an offence mentioned in subsection (6).

(4) Every application for the approval of an appointment in terms of this section shall be in the prescribed form.

(5) Every such application shall be made and signed by the person to whose appointment the application relates.

(6) A person shall be disqualified for the purpose of this section if he —

(a) is a minor;

(b) has during the preceeding two years been convicted of any offence —

(i) under this Act; or

(ii) involving dishonesty

(c) is not at the time of his appointment either —

(i) a citizen of Botswana; or

(ii) entitled to reside in Botswana in accordance with the provisions of the Immigration Act; or

(d) if the trade or business is one for which a licence may only be issued to a citizen and the person seeking approval for appointment as a manager is not a citizen of Botswana.

(7) For the purpose of this section, a licensee shall not be deemed to conduct the business thereunder personally, and the person appointed as manager shall not be deemed to be a manager of the business, unless such licensee or such person, as the case may be, visits the business premises daily and takes charge of the business:

Provided that the licensee or the manager of a business may absent himself from the business premises for a reasonable period for the purpose of business or of taking leave.

**23** (1) Subject to the provisions of this section, a licence issued under this Act shall not be transferred or removed except in the following cases, that is to say —

(a) where the holder of the licence is a citizen of wholly citizen-owned company of Botswana, to another citizen or wholly citizen-owned company;

(b) where the licence issued is in respect of specified premises, to another premises or location within the same licensing area;

(c) where the holder of the licence has died, to his legal representative;

(d) where the holder of the licence has been declared insolvent or has surrendered his estate for the benefit of his creditors, to his trustees;

(e) in any case where the holder of the licence becomes subject to any legal disability, to his legal representative.

Cap. 25:04

Transfer  
or removal  
of licences

(2) An application for a removal or transfer of a licence shall be treated as if it were an application for a new licence and accordingly the provisions relating to the procedure and the conditions to be complied with in applying for a new licence shall have effect in respect to an application for a removal or transfer of a licence.

Provided that where the application is made under paragraphs (a) or (b) of subsection (1) the licensing officer may issue a temporary licence for 90 days to permit the applicant to carry on the business pending determination of this application.

(3) For the purposes of this Act —

(a) removing a licence means taking it from the premises or location for which it was issued and issuing it for another premises;

(b) transferring a licence means issuing it to a person other than the person who holds or has held that licence.

24. Any holder of a licence issued under this Act whose licence has been lost or destroyed may on payment of the prescribed fee obtain a duplicate licence from the licensing authority by which the original licence was issued.

Issue of a duplicate licence

25. The licensing officer of any licensing authority shall keep a register in such form as may be prescribed, containing particulars of all licences issued in the area of such licensing authority.

Register of licences

26. (1) Where a licence is issued in respect of any premises, the holder of the licence shall exhibit and keep exhibited such licence and a signboard or name plate bearing in legible characters the name or style under which he carries on business in a prominent place on such premises.

Display of licence

(2) Whenever the holder of a licence restricted to fixed premises —

(a) alters the name or style of the licenced business;

(b) sells or alienates his licensed business to some other person;

or

(c) sells or alienates the good-will, book-debts or assets of his licensed business other than by the selling of stock in the ordinary course of business,

notice of the alteration, alienation or sale shall be advertised twice in the Gazette and twice in a newspaper circulating in the district in which the licensed business is carried on. Save where the advertisement relates solely to an alteration in the name or style of the licensed business, it shall be deemed to be, and shall have effect as, an advertisement published in accordance with section 34 (1) of the Insolvency Act.

Appoint-  
ment and  
powers of  
authorised  
officer

(3) In any case referred to in subsection (2) (a), the licensing officer, if satisfied that the provisions of subsection (2) have been complied with, shall endorse on the licence the alteration in the name or style under which the business is to be carried on.

**27.** (1) Regulations may designate persons to act as authorised officers for the purpose of this section.

(2) An authorised officer shall have power to enter at any reasonable time any premises in respect of which a licence has been issued; and any member of the Botswana Police Force or of the local police force in uniform shall have power to enter at any time premises on which he has reasonable cause to suspect that any trade or business is being carried on in contravention of the provisions of this Act.

(3) A person empowered to enter premises under subsection (2) —

(a) may inspect the premises;

(b) may require any person on the premises to furnish any information, including documents, in his possession as to the activities carried on the premises and the person by whom they are carried on.

(4) No person shall obstruct a person exercising powers conferred by this section or fail to comply with a requirement made by him in the exercise of those powers.

#### *PART IV — Special Provisions relating to sale of Intoxicating Liquor*

Prohibition  
of sale of  
intoxicating  
liquor  
without  
licence

**28.** (1) Subject to the provisions of this Part, no person shall sell any intoxicating liquor unless he has been issued under section 18 with any of the licences referred to in section 29 authorising him to sell intoxicating liquor.

(2) A person issued with any of the licences referred to in section 29 shall not, except during the hours specified in the regulations for sale of intoxicating liquor under such licence —

(a) himself or by his servant or agent sell or supply to any person in licensed premises any intoxicating liquor whether to be consumed on or off the premises; or

(b) consume in or take from such premises any intoxicating liquor.

(3) Nothing in subsection (1) shall prohibit or restrict the supply of intoxicating liquor for consumption on premises licenced 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.

(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable to a fine not exceeding P100 or to imprisonment for a period not exceeding three months.

**29.** (1) A person may sell intoxicating liquor if he is a holder of any of the following licences —

- (a) an hotel liquor licence;
- (b) a club liquor licence;
- (c) a bottle store liquor licence;
- (d) a bar liquor licence;
- (e) a restaurant liquor licence;
- (f) a temporary liquor licence;
- (g) a special liquor licence;

Licences  
required  
for sale of  
intoxicating  
liquor

(2) Subject to the provisions of this Part, a licence other than a temporary liquor licence or special liquor licence, issued in any year shall expire on 31st December in the year in which it is issued.

**30.** The provisions of this Part shall not apply —

- (a) to the sale or administration for purely medical purposes of any bona fide medicine containing intoxicating liquor;
- (b) to the sale of any spirituous or distilled perfume or perfumery, any methylated or otherwise denatured spirits, or any medicated wine;
- (c) to the sale of intoxicating liquor on any aircraft in flight over Botswana in the course of a normal passenger service;
- (d) on payment of the appropriate annual fee, to the sale of intoxicating liquor by a Railway Administration on any railway train through Botswana to any bona fide passenger thereon;
- (e) to the sale of intoxicating liquor within the precincts of the National Assembly in accordance with such conditions as may be approved by the Speaker;
- (f) to the sale of intoxicating liquor by any person acting under the order of a court or selling any liquor forfeited to the State under this Act or any other enactment;
- (g) 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 liquor licensee;
- (h) to the sale of intoxicating liquor, from any canteen approved for such purpose by the President, to members of the Botswana Police Force, the Botswana Defence force or the Prison Service.

Non-  
application  
of this  
Part

**31.** Notwithstanding anything to the contrary in this Part the Minister may, by notice published in the Gazette, authorize the sale of liquor by a licensee at times other than those prescribed in the regulations.

Minister  
may permit  
sale at  
other  
times by  
licensee

Storage of liquor in wholesale quantities

**32.** (1) The holder of an hotel liquor licence, club liquor licence or bottle store liquor licence shall not keep wholesale quantities of intoxicating liquor on the licensed premises except 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 door capable of being securely locked.

(2) Any licensee who contravenes any of the provisions of this section shall be guilty of an offence and liable to a fine not exceeding P600 or to a term of imprisonment not exceeding two years, or both.

Consumption of liquor purchased in certain premises prohibited

**33.** Where a person, having purchased intoxicating liquor from premises licensed under a bottle store liquor licence, drinks that liquor on the licensed premises or in any nearby premises which are under the licensee's control, or in any public place designated by the local licensing authority by notice in the Gazette as a place in which the consumption of liquor is prohibited, he and the licensee, if that drinking is with the knowledge or consent of the licensee, shall be guilty of an offence and liable to a fine not exceeding P1000 or to a term of imprisonment not exceeding three months, or to both.

Removal of liquor

**34.** If the holder of any licence issued under this Part, with intent to evade any of the provisions of this Part, 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 to a fine not exceeding P600 or to a term of imprisonment not exceeding two years, or to both.

Adulterating liquor etc.

**35.** Any licensee who —

(a) dilutes or adulterates any liquor for sale; or

(b) sells from or keeps for sale in a case, 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 respect corresponds to the mark or label,

shall be guilty of an offence and liable to a fine not exceeding P2000 or to imprisonment for a term not exceeding six months, or to both.

Restriction on sale, etc of liquor to children or young person

**36.** (1) A licensee shall not deliver intoxicating liquor to any person, who he knows or has reason to believe to be under the age of eighteen years.

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

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

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

(5) 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.

(6) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable to a fine of P100 and to imprisonment for three months.

**37.** (1) The holder of a liquor licence shall not permit drunkenness or any violent, quarrelsome or riotous conduct to take place in the licensed premises.

Licence holder not to permit drunkenness, etc.

(2) If the holder of a liquor licence is charged under subsection (1) with permitting drunkenness, and it is proved that any person was drunk in the licensed premises, the burden of proving that the licence holder and the persons employed by him took all reasonable steps for preventing drunkenness in the premises shall lie upon him.

(3) The holder of a liquor licence shall not sell intoxicating liquor to a drunken person.

(4) If any person contravenes the provisions of this section he shall be liable, on a first conviction to a fine not exceeding P100, and on every subsequent conviction to a fine not exceeding P200 or to a term of imprisonment not exceeding three months or to both.

**38.** (1) If any person in licensed premises procures or attempts to procure any intoxicating liquor for consumption by a drunken person he shall be guilty of an offence under this section.

Procuring drink for drunken person

(2) If any person aids a drunken person in obtaining or consuming intoxicating liquor in licensed premises he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be liable to a term of imprisonment not exceeding three months or to a fine not exceeding P200 or to both.

**39.** (1) Without prejudice to any other right to refuse a person admission to premises or to expel a person from premises, the holder of a liquor licence may refuse to admit to or may expel from the licensed premises any person who is drunk, violent, quarrelsome or disorderly, or whose presence in the licensed premises could subject the licence holder to a penalty under this Act.

Power to exclude drunkards, etc. from licensed premises

(2) If any person liable to be expelled from licensed premises under this section, when requested by the holder of the liquor licence or his agent or servant or any member of the Botswana Police Force or Local Police Force to leave the premises, fails to do so, he shall be liable to a fine not exceeding P500, or in default of payment, to a term of imprisonment not exceeding four months.

(3) Any member of the Botswana Police Force or a Local Police Force shall, at the request of the holder of a liquor licence or his agent or servant, help to expel from the licenced premises any person liable to be expelled therefrom under this section, and may use such force as may be required for that purpose.

Permitting  
licensed  
premises to  
be a brothel

40. (1) If the holder of a liquor licence permits the licensed premises to be a brothel, he shall be liable to a fine not exceeding P2000 or to a term of imprisonment not exceeding six months or to both.

(2) If the holder of a liquor licence is convicted, whether under this section or under any other enactment, of permitting his premises to be a brothel, he shall forfeit his licence.

Hotel  
registers

41. (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 of guest;
- (e) address to which the guest will be proceeding after leaving the hotel; and
- (f) nationality of the guest, and passport or identity card number if he is not a citizen of Botswana.

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

- (a) present the register referred to in subsection (1) 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 Force or an authorised officer.

(3) Any holder of an hotel liquor licence who fails to comply with subsection (1) shall be guilty of an offence and liable to a fine not exceeding P100 for every day during which the offence continues.

(4) Any holder of an hotel liquor licence who fails to comply with subsection (2) 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 to a fine not exceeding P500 or to a term of imprisonment not exceeding three months, or to both.

(5) The holder of an hotel liquor licence shall ensure that guests are informed of the provisions of this section and shall for this purpose exhibit a notice in a prominent place, with a sufficient synopsis of its requirement.

**42. (1)** The holder of an hotel liquor licence shall not fail or refuse, except with good and sufficient cause, to supply at reasonable charges to any person demanding —

(a) accommodation, at any hour of day or night;

(b) 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.

(2) Any holder of an hotel liquor licence who contravenes the provisions of this section shall be guilty of an offence and liable to a fine not exceeding P1000 or to a term of imprisonment not exceeding three months, or to both.

**43. (1)** No licensee, except with the written consent of a licensing officer, shall carry on, on the licensed premises, any business other than the business which he is authorised to carry on on the licensed premises under the provisions of this Part.

(2) Any licensee who carries on any business in contravention of this section shall be guilty of an offence and liable to a fine not exceeding P100 for every day during which the offence continues.

**44.** A licensing officer may, on any special occasion and on payment of the appropriate fee grant an extension not exceeding three hours during which intoxicating liquor may be sold on the premises.

**45.** Notwithstanding the provisions of any enactment 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 meals, snacks and light refreshment, tobacco products, smokers' requisites, soft drinks, mineral water, sweets, chocolates, camera films, picture-postcards and souvenirs. The holder of a bar licence may also carry on any similar business except that of selling meals.

**46. (1)** Notwithstanding anything contained elsewhere in the Act and notwithstanding that no prosecution has been brought in respect of such discrimination, where the Minister is satisfied that discrimination is practised on any licensed premises he may forthwith cancel the licence by virtue of which such premises are licenced.

(2) The cancellation of a licence by the Minister under subsection (1) shall be final and shall not be questioned in any court.

(3) Where the Minister has cancelled a licence under subsection (1) the holder of such licence shall be disqualified from holding any licence under this Act for a period of 5 years from the date of such cancellation.

(4) For the purposes of this section "discrimination" means the treating of any person on the grounds of sex, colour, race, nationality or creed less favourably than or in a manner different from any other person.

Hotel keeper to provide meals and accommodation

Restrictions against other business on licensed premises

Licensing officer may grant limited extension of hours

Sale of tobacco etc.

Discrimination prohibited

## PART V — *Miscellaneous Provisions*

Business  
of tribal  
territory

47. In the case of an application where the premises for which it is proposed that the licence should apply are situated on tribal territory, the licensing authority shall refuse to hear the application until the applicant produces proof to its satisfaction that the applicant is entitled to or has applied for the right to occupy the site of such premises.

No structural  
alteration  
to licensed  
premises  
without  
approval

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

(2) The licensee of any premises which are altered contrary to the provisions of this section shall be guilty of an offence and liable to a fine not exceeding P500 and, in the case of a continuing offence, to a further fine not exceeding P100 for every day during which the offence continues.

Licensee may  
not absent  
himself

49. No licensee shall permit any other person to manage, superintend or conduct the licensed business unless such person is fully conversant with the business and can, if called upon to do so by an authorised officer, supply all such information concerning the said business as may be required under this Act.

Restrictions  
on licensee of  
hotels and  
restaurants

50. (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 authorized to carry on on the licensed premises under the provisions of this Act.

Premises may  
be closed in  
event of  
breach of  
peace

51. (1) If any serious breach of the peace occurs or is expected to occur, any authorised officer or member of the Botswana 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 Minister, 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 to a fine of P1000 and to term of imprisonment not exceeding three months.

Minister  
may grant  
exemptions  
from Act in  
public  
interest

52. The Minister may exempt any person from the provisions of this Act if in the opinion of the Minister it is desirable in the interest of the public or of any section of the public that such exemption should be granted.

**53. (1) Health inspectors appointed by any District, City or Town Council may within the area administered by that Council inspect any premises licensed under this Act during the hours when such business is open to the public.**

Health Inspectors may enter during business hours for inspection

**(2) Any person obstructing any such inspection shall be guilty of an offence under this Act and liable to a fine of P100 or to three months imprisonment or to both such fine and imprisonment.**

**54. (1) Any person carrying on any of the businesses referred to in the first column hereunder shall not merely by reason of selling the goods set opposite thereto in the second column hereunder in the course of such business and on the premises on which such business is carried on require any licence under this Act —**

Certain business not prohibited without licence

- |   |  |
|---|--|
| <b>(a) farmer, stock raiser, market gardener or dairyman;</b>   | <b>any produce (other than fresh meat;)</b>                      |
| <b>(b) manufacturer;</b>  | <b>any manufacturers of such business</b>                        |
| <b>(c) miner;</b>   | <b>any minerals won in the carrying on of such business;</b>     |
| <b>(d) any business referred to in paragraph 4(3) of the Regulations;</b>   | <b>any goods permitted to be sold by virtue of such licence;</b> |
| <b>(e) any business in respect of which a licence is required to be taken out under any other law for the time being in force to which the Minister, by notice published in the Gazette, has extended the provisions of this section;</b> | <b>any goods permitted to be sold by virtue of such licence;</b> |

**(2) A manufacturer who holds a licence issued under the Industrial Development Act shall not merely by reason of selling any goods to which that licence relates in the course of his business as a manufacturer, require any licence under this Act.**

Cap. 43:01

**55. Any person who wilfully makes or inserts any false statement in any form, book or other document other than in a hotel register, required to be kept by this Act shall be guilty of an offence and liable to a fine not exceeding P1000 and to a term of imprisonment not exceeding one year, or to both.**

Wilfully making false statement in document

**56. Any person who —**

- (a) forges any licence;**
- (b) alters or erases any part of a licence or any entry lawfully made thereon;**
- (c) produces or uses any forged licence or which to his knowledge has been unlawfully altered, or from which erasures have been unlawfully made;**

Forging licences

- (d) produces or uses any licence in the name of some other person, living or dead, or of a fictitious person; or
- (e) forges any document for the purposes of obtaining a licence,

shall in addition to any punishment for which he may be liable under any other law be guilty of an offence and liable to a fine of P600 and to a term of imprisonment not exceeding two years.

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 41 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 subsection (2), departs from those premises in contravention of subsection (1) shall be guilty of an offence and liable to a fine not exceeding P500 or to a term of imprisonment not exceeding three months, or to both.

Meaning of  
possession

58. For the purposes of this Act 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 of  
intoxicating  
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 Act, be evidence of the sale of such liquor without proof that money passed.

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

(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 and unless the contrary be shown, be evidence that the liquor was sold by or on behalf of the licensee to that person.

**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 any provision of this Act, then, except in the circumstances set out in subsection (2), that licensee shall be deemed to have contravened that provision and shall be liable to the penalties therefor.

Criminal responsibility of employer and employee

(2) Subsection (1) 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 instruction 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 any provision of this Act shall be deemed himself to have contravened the provision and shall be liable to the penalties therefor.

**61.** Nothing in this Act shall entitle the holder of a licence under this Act to sell any article or substance or do anything for the sale or doing of which a separate licence is required by any other law for the time being in force.

Restriction on licensee by other laws not waived

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

Forfeiture of licence and disqualification

**63.** (1) Where any person is convicted of an offence under this Act relating to intoxicating liquor the court in addition to imposing any other lawful penalty may order that any intoxicating liquor 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 is contained shall be forfeited to the State.

Liquor and vessels may be forfeited

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

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

Temporary licence pending appeal

(2) A temporary licence granted under the provisions of subsection (1) shall apart from any conditions imposed under the said subsection be of the same force and effect and be subject to the same conditions as the licence forfeited.

Appeal to  
Minister

**65.** Any person aggrieved by a decision of a licensing authority —

- (a) refusing to issue or to renew a licence;
- (b) refusing the transfer or removal of a licence; or
- (c) cancelling a licence,

may appeal to the Minister whose decision thereon shall be final.

Regulations  
may add  
business to  
those in  
section 7  
and 29

**66.** Regulations may be made requiring a licence for any trade or business not already included in those set out in sections 7 and 29.

General  
penalty

**67.** A person guilty of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding P2000 or to a term of imprisonment not exceeding two years or to both.

Regula-  
tions

**68.** The Minister may, by statutory instrument, make regulations providing for any matter which under this Act is to be provided for by regulations and generally for the purpose of giving effect to the provisions of this Act.

Repeals  
Cap.43:02  
Cap.45:01

**69.** The following enactments are hereby repealed —

- (a) The Trading Act; and
- (b) the Liquor Act.

**PASSED** by the National Assembly this 16th day of December, 1986.

**C.G. MOKOBI,**  
*Clerk of the National Assembly.*