

LIQUOR ACT, 2003



No. 9

of 2004

ARRANGEMENT OF SECTIONS

SECTION

PART I — *Preliminary*

1. Short title and commencement
2. Interpretation

PART II — *Establishment of Control Authority*

3. Establishment of liquor control authority
4. Tenure of office
5. Disqualification for appointment as member of control authority
6. Vacation of office of members
7. Removal and suspension from office
8. Filling of vacancies of control authority
9. Functions of a liquor control authority
10. Proceedings of a control authority
11. Disclosure of interest

PART III — *Application to Trade in Liquor*

12. Prohibition against trading without a licence
13. Application for a licence
14. Power of control authority when considering application
15. General principles affecting issue of licences
16. Issue and duration of a licence
17. Renewal of licence
18. Certain trades and businesses to be reserved for citizens
19. Proof of shareholding
20. Transfer of licence
21. Issue of a duplicate licence
22. Suspension of licence
23. Revocation of licence
24. Appeals

PART IV – Conditions Applicable to Licensee

25. Conversant person to manage in absence of licensee
26. Authorised officers
27. Environmental health officers may inspect premises
28. Breach of Peace
29. Storage of liquor in wholesale quantities
30. Consumption of liquor at premises licensed under bottle store or wholesale liquor licence
31. Adulterating liquor, etc.
32. Restriction on sale of liquor to persons under 18 years
33. Licensee not to permit drunkenness, etc.
34. Procuring liquor for a drunk person
35. Right to exclude drunk person

PART V — General Provisions

36. Display of licence
37. Discrimination prohibited on licensed premises
38. Exemption from Act
39. Restriction on licensee by other law
40. Transitional provisions
41. Offences and penalties
42. Regulations

An Act to provide for the establishment of liquor control authorities; to provide for their powers, duties and functions; to provide for comprehensive regulation of trade in liquor and for matters incidental thereto.

Date of Assent: 22nd March, 2004.

Date of Commencement: On Notice.

ENACTED by the Parliament of Botswana.

PART I — Preliminary

Short title
and commen-
cement

1. This Act may be cited as the Liquor Act, 2003 and shall come into operation on such date as the Minister may, by Order published in the Gazette, appoint.

Interpretation

2. In this Act, unless the context otherwise requires —
“authorised officer” means a person so designated under section 26;
“control authority” means liquor control authority in the relevant district, sub district, town or city, established under section 3;
“bar” means a place used for the sale of intoxicating liquor, non intoxicating drinks and snacks, for consumption on the premises;
“bottle store” means a place used for the sale of intoxicating liquor, non intoxicating drinks in sealed vessels and snacks for consumption off the premises;

“bulk” means quantities of goods as packaged by the manufacturer and not broken up into smaller quantities or single units, save that in the case of high value items such as fridges, furniture and bicycles, a wholesaler may sell an item in smaller quantities or single units;

“club” means a place where intoxicating liquor in unsealed vessels and food can be purchased, for consumption at such place;

“council” means a city or town council established under the Townships Act or a district council established under the Local Government (District Councils) Act;

Cap 40:02

Cap 40:01

“discotheque / night club” means a place of entertainment with facilities for dancing to music or live entertainment, where intoxicating liquor is sold for consumption at such place;

“discrimination” means the treating of any person on the grounds of sex, colour, race, nationality or creed, or religion, less favourably than, or in any manner different from, any person;

“distributor” means a person who carries on the business of negotiating contracts between parties for any product for which he is an agent for reward;

“fronting” means obtaining a licence to enable another person, who would otherwise not qualify to obtain such a licence, to run a business;

“intoxicating liquor” means spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor and includes traditional beer;

“licensee” means a person to whom a licence has been issued under this Act;

“member” means a member of a control authority;

“region” means an area made up of districts in the same geographical area;

“register” means a register kept in accordance with section 9 (b);

“sell” means to sell by retail or wholesale and includes to barter, exchange, offer or expose for sale;

“trade” means to carry on the business of selling intoxicating liquor;

“traditional beer” means —

(a) beer brewed under licence from sorghum-meal or mixture of sorghum-meal and mealie-meal by the fermentation of malt sorghum for commercial purposes;

(b) any other beer declared by regulations made under section 42 to be traditional beer;

“temporary liquor licence” means an authorisation permitting the holder to sell intoxicating liquor at a public place for consumption at such place, for a period not exceeding 90 days; and

“wholesale” means a place used for the selling of intoxicating liquor and other beverages in bulk.

PART II – *Establishment of Liquor Control Authorities*

Establishment
of liquor
control
authority

3. (1) There is hereby established a liquor control authority for each district, sub district, town and city.

(2) The Minister shall by notice published in the Gazette, appoint members of the control authority.

(3) A control authority established under subsection (1) shall consist of the following members —

- (a) a Chairman, who shall be appointed by the Minister from the private sector;
- (b) an environmental health officer;
- (c) a physical planner;
- (d) a member of the Botswana Police Service;
- (e) a representative of a non governmental organization;
- (f) one member of the community;
- (g) three councilors
- (h) a representative of the Ministry of Trade and Industry; and
- (i) a representative of Tribal Administration.

(4) The members shall elect from among their number, the Vice Chairman.

Tenure of
office

4. (1) The Chairman shall hold office for a period not exceeding three years and shall, at the end thereof, be eligible for reappointment.

(2) A member, other than the Chairman, shall hold office for such period as may be specified in the notice appointing him, and shall be eligible for reappointment.

Disqualification
for appoint-
ment as
member of
control
authority

5. No person shall be appointed as a member of a control authority, nor shall any person be qualified to hold office as a member of a control authority, who —

- (a) has, in terms of any law in force in any country —
 - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged, or
 - (ii) made an assignment to, or arrangement or composition with, his creditors, which has not been rescinded or set aside; or
- (b) has, within a period of ten years immediately preceding the date of his proposed appointment, been convicted —
 - (i) in Botswana of a criminal offence, or
 - (ii) outside Botswana, of an offence which, if committed in Botswana, would have been a criminal offence, and sentenced by a court of competent jurisdiction to imprisonment for six month or more without the option of a fine, whether that sentence has been suspended or not, and for which he has not received a free pardon.

6. A member shall vacate his office and his office shall become vacant —

Vacation of
office of
members

- (a) if he becomes disqualified in terms of section 5 to hold office as a member;
- (b) if he is adjudged bankrupt or insolvent;
- (c) if he is absent from three consecutive meetings of a control authority without reasonable excuse;
- (d) upon his death;
- (e) upon the expiry of one month's notice, given in writing to the Minister, of his intention to resign his office;
- (f) upon the expiry of such time as the Minister may specify in writing, notifying him of his removal from office by the Minister;
- (g) if he becomes mentally or physically incapable of performing his duties as a member; or
- (h) if he is convicted of an offence under this Act or under any other Act for which he is sentenced to imprisonment for a term of six months or more without the option of a fine.

7. (1) The Minister may, if he is satisfied that a member has acted improperly as such member, or is mentally or physically incapable of performing his duties efficiently, require that member, in writing, to vacate his office within such time as he may, in writing, specify.

Removal and
suspension
from office

(2) The Minister shall, in writing, suspend from office, a member against whom criminal proceedings are instituted for an offence in respect of which a sentence of imprisonment may be imposed, and whilst that member is so suspended, he shall not carry out any duties or be entitled to any remuneration or allowances as member.

8. On the death of, or the vacation of office by a member, the Minister shall appoint a person to take the place of the member who died or vacated his office until the expiry of the period during which such member would have otherwise continued in office.

Filling of
vacancies of
control
authority

9. (1) A control authority shall —

(a) issue, in accordance with the provisions of this Act, the following licences —

Functions of a
liquor control
authority

- (i) bar liquor licence,
 - (ii) bottle store liquor licence,
 - (iii) Liquor depot licence;
 - (iv) discotheque/night club liquor licence;
 - (v) distributor liquor licence;
 - (vi) club liquor licence,
 - (vii) temporary liquor licence,
 - (viii) wholesale liquor licence;
- (b) keep a register in such form as may be prescribed, of all the licences it has issued;
- (c) monitor the operations of the licensed premises; and

(d) perform such other functions as may be conferred on it under this Act or regulations made thereunder.

(2) The chief executive officer of the council or his nominee shall be the licensing officer and secretary to the control authority.

10. (1) Subject to the provisions of this Act, a control authority shall regulate its own procedure.

(2) A control authority shall meet at least once in a month for the transaction of business.

(3) At least 14 days before the scheduled date of its first meeting of the year, the control authority shall cause to be published by notice in the Gazette, the Daily News and any private newspaper, the dates of its meetings.

(4) There shall preside at any meeting of a control authority —

(a) the Chairman;

(b) in the absence of the Chairman, the Vice Chairman; and

(c) in the absence of both the Chairman and the Vice Chairman, such member as the members present shall elect from among themselves for the purpose of that meeting.

(5) The quorum at any proceeding of a control authority shall be six members.

(6) A decision of a control authority on any matter shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the Chairman shall have a casting vote in addition to his deliberative vote.

(7) A decision of a control authority shall not be rendered invalid by reason only of a vacancy in the membership of the control authority or by reason only that a person who was not entitled to sit as a member sat as such a member.

(8) The Chairman shall cause minutes of the proceedings of a control authority to be recorded and kept.

11. (1) Where a member is present at a meeting of the control authority at which is being discussed a matter in which the member has a direct or indirect interest in a private capacity, the member shall, as soon as practical after the commencement of the meeting, disclose such interest and shall not take part in any consideration or discussion of, or vote on, any question touching such matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Where a member fails to disclose his interest in accordance with subsection (1) and a decision by a control authority is made benefitting such member, such decision shall be null and void.

(4) A member who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding P6 000.00, or to imprisonment for a term not exceeding three years, or to both.

PART III — *Application for a Licence to Trade in Liquor*

12. (1) No person shall carry on the business of selling intoxicating liquor unless he holds a licence issued under this Act.

Prohibition
against
trading
without a
licence

- (2) The provisions of subsection (1) shall not apply to the sale of —
- (a) or administration, for purely medical purposes, of any *bona fide* medicine containing intoxicating liquor;
 - (b) any spirituous or distilled perfume or perfumery, any methylated or otherwise denatured spirits, or any medicated wine;
 - (c) intoxicating liquor on any aircraft in flight over Botswana in the course of a normal passenger service;
 - (d) intoxicating liquor on payment of the appropriate annual fee, by a Railway Administration on any railway through Botswana, to any *bona fide* passenger thereon;
 - (e) intoxicating liquor within the precincts of the National Assembly in accordance with such conditions as may be approved by the Speaker;
 - (f) 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) by an executor, administrator or trustee in insolvency, any intoxicating liquor which forms part of the estate of a deceased or insolvent person other than a liquor licensee; or
 - (h) intoxicating liquor, from any canteen approved for such purpose by the President, to members of the Botswana Police Service, the Botswana Defence Force or the Prisons Service.

(3) A person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding P10 000.00 or to imprisonment for a term not exceeding five years, or to both.

13. (1) A person shall make an application for a licence in such form and on payment of such fee as may be prescribed and shall submit the application to the control authority of the jurisdiction within which the applicant intends to trade.

Application
for a licence

(2) Every applicant for the issue of a licence shall at his own expense, publish his application in such form as may be prescribed, twice in the Gazette, the Daily News or any private newspaper and shall call upon any person wishing to object to do so by lodging his objection in writing with the authority.

(3) No application for the issue of a licence shall be considered by the authority except on proof that the applicant has complied with subsection (2).

(4) Any person wishing to object to the issue of a licence of which notice of application has been given in terms of subsection (2) shall within 21 days of the last publication of such notice, lodge his grounds of objections in writing with the authority.

(5) Upon receipt of such grounds of objection, the authority shall invite the applicant to comment in writing on the grounds of objection and the authority shall, on the basis of those grounds, reject or approve the application.

Power of control authority when considering application

14. A control authority shall, for purposes of considering an application made under section 13 have the power to —

- (a) take evidence on oath or affirmation, and for that purpose, to administer oaths and affirmations;
- (b) summon by notice, in such form as may be prescribed, any person to give evidence in respect of the application or to produce any book, plan or document relating thereto; and
- (c) carry out such investigation as may be necessary in order to ascertain any of the matters which a control authority is required to consider under section 15.

General principles affecting issue of licences

15. A control authority shall not issue a licence where it is satisfied that —

- (a) the applicant is below 18 years of age;
- (b) the issue of such licence would conflict with any approved or proposed town planning scheme or zoning area, or any health or other regulations;
- (c) the applicant is an unrehabilitated insolvent;
- (d) the applicant has surrendered his estate for the benefit of his creditors;
- (e) the applicant has, within a period of two years immediately preceding the date of the application, been convicted of an offence involving dishonesty;
- (f) the applicant does not qualify in terms of section 18 for the issue of a particular licence;
- (g) the proposed premises to carry on the trade or business —
 - (i) do not have such facilities as may be prescribed, or
 - (ii) are within such distance as may be prescribed from the vicinity of a school, highway, major road, or church;
- (h) the applicant is a non citizen and has failed to produce —
 - (i) proof of registration of his business or company where the applicant is not an individual,
 - (ii) a valid identification document,
 - (iii) a valid work permit, or
 - (iv) a valid residence permit.

Issue and duration of a licence

16. (1) A control authority shall, where it is satisfied that an application meets the requirements for the issue of a licence, issue to the applicant a licence.

(2) A licence issued under this Act shall, unless previously renewed or revoked, expire at the end of a period of 12 months of the date of issue.

Renewal of licence

17. (1) An application for the renewal of a licence that has not been revoked shall be made to the control authority by the licensee in such form as may be prescribed.

(2) The licensee shall, when applying for the renewal of a licence under subsection (1) —

- (a) pay any outstanding fines;
- (b) pay such fee as may be prescribed; and
- (c) comply with such other conditions as the control authority may determine.

(3) Where an application for renewal is made after a period not exceeding 12 months after the expiry of a licence, a licensing authority may renew the licence subject to the payment of such penalty as may be prescribed.

(4) A penalty payable in accordance with subsection (3) shall be a sum equal to one quarter of the renewal fee multiplied by the number of months which have elapsed since the date on which the validity of the licence expired, calculated to the nearest Pula.

(5) An application for the renewal of a licence that expired 12 months or more prior to the application for renewal shall be treated as an application for a new licence and the provisions of section 14 and 15 shall apply.

18. (1) The Minister may make regulations providing that licences to carry on a reserved trade or business in liquor shall be issued only to citizens of Botswana or to companies wholly owned by citizens of Botswana.

Certain trades and businesses to be reserved for citizens

(2) Regulations made in accordance with subsection (1) may further provide that only citizens of Botswana shall —

- (a) be entitled to carry on trade in liquor or transact liquor business —
 - (i) in such areas in the country as may be prescribed, or
 - (ii) from such premises as may be prescribed; or
- (b) engage in specific types of liquor businesses.

(3) A joint venture of a medium business enterprise between a citizen and a non citizen may be granted a licence in a reserved liquor trade or business where a citizen has a minimum beneficial ownership of 51 per centum of the joint venture;

Provided that a citizen partner may, with the approval of the Minister, hold less than 51 per centum shares in a joint venture arrangement.

(4) For the purposes of this section, 'medium business enterprise' means a business that employs less than 100 people and which has an annual sales turnover of between P1 500 000.00 and P5 000 000.00.

19. A trade or business licensed under section 18(3) shall —

- (a) maintain shareholding in the trade or business at a minimal shareholding of 51 per centum citizens; and
- (b) on renewal of the licence under section 17, furnish the control authority with proof that its shareholding continues to be maintained in accordance with paragraph (a).

Proof of shareholding

Transfer of
licence

20. (1) A person may, on application in such form as may be prescribed, apply to a control authority for a licence to be transferred to another person.

(2) Without prejudice to the generality of subsection (1), a control authority may transfer a licence where —

- (a) the licensee is a citizen or a wholly citizen owned company of Botswana holding a reserved licence, to another citizen or wholly owned citizen company;
- (b) the licence issued is in respect of specified premises, to another premises within the same district, sub-district, town or city;
- (c) the licensee has died, to his heir or beneficiary;
- (d) the licensee has been declared insolvent or has surrendered his estate for the benefit of his creditors, to his trustees; and
- (e) the licensee becomes subject to any legal disability, to his legal representatives.

(3) For the purposes of this section, “transferring a licence” means re-issuing a licence under this Act to a person other than the person who holds or has held the licence.

Issue of a
duplicate
licence

21. A licensee whose licence is lost, destroyed or mutilated may, by application to the control authority that issued the licence, and on payment of such fee as may be prescribed, obtain a duplicate licence.

Suspension
of licence

22. (1) A control authority may suspend a licence where —

- (a) the licensee has failed to conduct business in accordance with the conditions attached to the licence he holds; or
- (b) an inspection report made in accordance with section 27 has recommended its suspension.

(2) A suspension under this section shall be for such period as the control authority may determine to enable the licensee to take remedial action so as to comply with such requirements of his licence and the provisions of this Act, the non compliance of which form the basis for revoking of his licence.

Revocation
of licence

23. A control authority may revoke a licence where —

- (a) a licensee has failed to take remedial action referred to under section 22(2) at the expiration of the time given thereunder;
- (b) a licensee has failed to comply with section 19;
- (c) a report made in accordance with section 27(2) has recommended revocation; or
- (d) a licensee has been convicted of an offence under this Act, three times in a year.

Appeals

24. (1) A person aggrieved by the control authority’s decision —

- (a) not to issue or renew a licence;
- (b) not to transfer a licence;
- (c) to suspend a licence; or
- (d) to revoke a licence.

Act No.
of 2003

may appeal in writing, to the Regional Appeals Board established under the Trade Act, within 30 days of notification of the decision.

(2) A person aggrieved by a decision of the Regional Appeals Board may appeal to the Minister in writing, within 30 days of notification of a decision of the Board.

PART IV — *Conditions Applicable to Licensee*

25. (1) A licensee shall not permit another person to manage or conduct the licensed business unless such person is fully conversant with the business and shall, if called upon by an authorised officer in accordance with section 26(2)(b), supply such information about the business as may be required under this Act.

Conversant
person to
manage in
absence of
licensee

(2) Without prejudice to the generality of subsection (1), a licensee shall not allow a person who —

- (a) is below the age of 18 years;
- (b) has, during the two years preceding the application, been convicted three times in a year of an offence under this Act or of an offence involving dishonesty; or
- (c) does not have a Botswana residence and work permit, to manage the licensed premises.

(3) A licensee who contravenes subsection (2) shall be guilty of an offence and liable to a fine not exceeding P2000.00 or to imprisonment for a term not exceeding three months, or to both.

26. (1) The Minister shall, by Notice published in the Gazette, appoint such number of persons as appear to him to be necessary, as authorised officers, which authorised officers shall perform the duties set out in subsection (2).

Authorised
officers

(2) An authorised officer may enter at any time premises where there is trade in liquor and may —

- (a) inspect the premises;
- (b) require a person on the premises to furnish any information including documents in his possession as to the activities conducted on the premises and the person by whom they are conducted;
- (c) caution the person on the premises regarding contravening the provisions of the licence; or
- (d) confiscate goods where there is evidence that the goods contravene the Act or conditions of the licence held.

(3) Every authorised officer shall be issued with an identity card in such form as may be prescribed, and shall have such identity card in his possession when performing any functions under this Act.

(4) A person who obstructs an authorised officer in the discharge of his duties under this section shall be guilty of an offence and liable to a fine not exceeding P4000.00 or to imprisonment for a term not exceeding three months, or to both.

Environmental health officers may inspect premises

27. (1) An environmental health officer within the jurisdiction of a control authority may inspect any premises licensed under this Act during the hours when such business is open to the public.

(2) Where an environmental health officer finds the premises in a state that poses a danger to public health or where a danger to public health is likely to occur, he shall write a report to the control authority recommending revocation in accordance with section 23.

(3) A person who obstructs an inspection under subsection (1) shall be guilty of an offence and liable to a fine not exceeding P5000.00 or to imprisonment for a term not exceeding two years, or to both.

Breach of Peace

28. (1) An authorised officer or member of the Botswana Police Service of the rank of Sergeant or above may order, in writing, licensed premises to be closed for such period as he considers appropriate, where serious breach of peace has occurred or is likely to occur.

(2) A person who resists or obstructs the execution of an order given under this section shall be guilty of an offence and liable to a fine not exceeding P4 000.00 or to imprisonment for a term not exceeding one year, or to both.

Storage of liquor in wholesale quantities

29. (1) A club, bar, discotheque or bottle store licensee 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 door capable of being securely locked.

(2) A licensee who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding P6000.00 or to imprisonment for a term not exceeding one year, or to both.

Consumption of liquor at premises licensed under bottle store or wholesale

30. (1) Where a person having purchased intoxicating liquor from premises licensed under a bottle store liquor or wholesale liquor licence, drinks the liquor —

(a) on the licensed premises; or

(b) in any public place designated by the control authority by Notice in the Gazette as a place in which consumption of liquor is prohibited, he shall be guilty of an offence and liable to a fine not exceeding P5000.00 or to imprisonment for a term not exceeding six months, or to both.

(2) A licensee who allows a person under subsection (1)(a) to contravene that subsection shall be guilty of an offence and liable to a fine not exceeding P5000.00 or to imprisonment for a term not exceeding six months, or to both.

Adulterating liquor, etc.

31. A 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 respects corresponds to the mark or label,

shall be guilty of an offence and liable to a fine not exceeding P2000.00 or to imprisonment for a term not exceeding six months, or to both.

32. (1) A licensee shall not —

- (a) deliver intoxicating liquor to any person whom he knows or has reason to believe to be under the age of 18 years;
- (b) 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 18 years; or
- (c) allow a person whom he knows or has reason to believe to be under the age of 18 years to enter and remain in any premises licensed under this Act.

Restriction on sale of liquor to persons under 18 years

(2) A licensee who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding P5000.00 or to imprisonment for a term not exceeding one year, or to both.

33. (1) A licensee shall not allow drunkenness or violent, quarrelsome or riotous conduct to take place on the licensed premises.

(2) Where a licensee is charged with contravening subsection (1), the burden of proving that the licensee or the person employed by him took all reasonable steps of preventing the conduct in question shall lie upon such licensee.

Licensee not to permit drunkenness, etc.

(3) A licensee shall not sell intoxicating liquor to a drunken person.

(4) A licensee who contravenes a provision of this section shall be guilty of an offence and liable to a fine not exceeding P5000.00 or to imprisonment for a term not exceeding six months, or to both.

34. A person who —

- (a) procures or attempts to procure intoxicating liquor for consumption by a drunken person on licensed premises; or
- (b) aids a drunken person in obtaining or consuming intoxicating liquor on licensed premises,

Procuring liquor for a drunk person

shall be guilty of an offence and liable to a fine not exceeding P5000.00 or to imprisonment for a term not exceeding six months, or to both.

35. (1) Without prejudice to any other right to refuse a person admission to premises or to expel a person from premises, a licensee shall refuse to admit to or shall expel from the licensed premises any person who is drunk, violent, quarrelsome or disorderly, or whose presence on the licensed premises could subject the licensee to a penalty under this Act.

Right to exclude drunk person

(2) A member of the Botswana Police Service or Local Police shall, at the request of the licensee or his agent, help to remove from the licensed premises, a person liable to be expelled therefrom under this section, and may use such force as may be required for that purpose.

(3) A person who is requested under subsection (1) by a licensee or his agent, a member of the Botswana Police Service or Local Police to leave the premises, and who refuses or fails to do so, shall be guilty of an offence and liable to a fine not exceeding P5000.00 or to imprisonment for a term not exceeding six months, or to both.

PART V — *General Provisions*

Display of
licence

36. (1) Where a licence is issued in respect of any premises, the licensee shall exhibit, and keep exhibited, in a prominent place on the premises, the licence and a sign authority or name plate bearing in legible letters, the name or style under which the licensee carries on business.

(2) A licensee who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding P500.00 or to imprisonment for a term not exceeding one month, or to both.

Discrimination
prohibited on
licensed
premises

37. (1) A person shall not discriminate against another person on licensed premises.

(2) A person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding P6000.00 or to imprisonment for a term not exceeding three years, or to both, and, if such person is a licensee, the control authority may, in addition to the penalty prescribed in this subsection, revoke that person's licence.

(3) Where the control authority has revoked a licence under subsection (2), the holder of that licence shall be disqualified from holding any licence under this Act for a period of five years from the date of that revocation.

Exemption
from Act

38. The Minister may, by regulations, exempt any person from any provision of this Act, where in the opinion of the Minister it is desirable in the interest of the public that such exemption be granted.

Restriction
on licensee
by other law

39. Nothing in this Act shall entitle a licensee to sell anything in the premises housing the licensed business, for which a separate licence is required by law.

Transitional
provisions

40. The Minister may make regulations providing for such transitional arrangements not otherwise provided for in this Act, as shall be necessary for the establishment of the liquor control authority.

Offences and
penalties

41. (1) A person who —

(a) willfully makes a false statement in any form, book or other document required to be kept under this Act;

(b) forges a licence;

(c) alters or erases any part of a licence or any entry lawfully made thereunder;

(d) produces or uses a licence which is forged or which to his knowledge has been unlawfully altered;

(e) produces or uses a licence in the name of some other person or a fictitious person;

(f) forges any document for the purposes of obtaining a licence;

(g) fronts for another person or uses another person as a front; or

(h) runs a business under a licence obtained under paragraph (g),

shall be guilty of an offence and liable to a fine not exceeding P2 000.00 for a first offence and to a fine not exceeding P10 000.00 or to imprisonment for a term not exceeding five years or to both on a second or subsequent offence.

(2) Subject to subsection (3), where a 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, the licensee shall be deemed to have contravened the provision and shall be liable to the penalties therefor.

(3) Subsection (2) shall not apply where —

- (a) the act or omission was done without the licensee's knowledge, consent or connivance; and
- (b) all reasonable steps were taken by the licensee to prevent the act or omission.

(4) Where the licensee issued instructions forbidding an act or omission, such action shall not of itself be sufficient proof of compliance with subsection (3)(b).

42. (1) The Minister may make regulations prescribing anything under this Act which is to be prescribed or which is necessary or convenient to be prescribed for the better carrying out of the objects and purposes of this Act, or to give force and effect to its provisions.

Regulations

(2) Without prejudice to the generality of subsection (1), regulations may provide for —

- (a) forms to be used and fees to be used for any application under this Act;
- (b) trades, businesses, business areas, business premises and investment limits reserved for citizens;
- (c) hours of operation of premises licensed under this Act;
- (d) the manner of keeping and maintaining a register;
- (e) facilities to be maintained on licensed premises and the distance of the licensed premises from a school, highway, major road or church;
- (f) the designation of persons to be authorised officers and the procedures to be followed by authorised officers; or
- (g) the exemption of specified people from this Act.

PASSED by the National Assembly on this 7th day of August, 2003.

A. MATLHAKU,
Clerk of the National Assembly.