

1935

Kenya

No. 38028

SUBJECT

CO 533/455

Liquor Legislation

Previous

23260/34

Subsequent

1936. file

P.O.

C.S.

Liquor legislation

Col. Secretary Spivey

24 Dec 34

Spivey's Library

Trans. 12 copies of Report of Select. Committee of Reg. Council
on the Liquor Bill

Await the Ordinance but

Bp & disacted on

23260734

C. P. ... 25/1/35

above

B.S.

Liquor Ordinance 2

Govt. Deputy Wade 29

11 Jan 35

1 authenticated &
18 printed copies of
Ordinance to Library

Trans. 2 authenticated & 12 printed copies of the
Liquor Ordinance 62 of 1934

Mr. Roberts-Wray

Have you any legal opinions please? I have lots
of non-legal ones C.S.

§ 6 is a breach of international agreement since art. 5 of
the 5th Geneva Convention lays down that all distilling is
prohibited in Africa

§ 10 (7) (a) makes it illegal for a member of a club to
get a flask filled in his club before going off for a
ride

§ 10 (5) Smallest bottle is 1/4 pint.

1.1.35 R.W.D. 14.2

"Native" is not defined. Presumably it is intended that
the definition contained in the Interpretation (Defn. of) Order
No. 55 of 1934 shall apply (see rec. with note to 5.2). But
this is not stated, and 55 of 1934 does not apply to defn. 6
further Orders. However 55 of 1934 includes in "native" a
Swahili. Yet the order under Interpretation definitely mentions
a Swahili, thus excluding a Swahili from its use of "native".
This gives rise to the inference that the definition in

55 of 1934 is not intended.

I cannot find that there is any reserved right of appeal from the decision of a Licensing Court. It might be thought impracticable to give a right of appeal.

s. 6 is striking, in breach of the Convention. But perhaps it is within the spirit of the Convention, "manufacture" in Art. 5 employing "for the purpose of trade" or "distribution"?

s. 26 & 28 Although provision is made for when any objection to the renewal of a licence to be given to the applicant for renewal, and, in case no objection is given, enabling him to secure an adjournment (s. 26 (1) (2) and s. 28 (2)), there are no such provisions for the benefit of the applicant for a new licence. Enquiry might be made as to the reasons for this omission.

s. 26 s. 3 (3) (4) should be remembered (A) & (5).

s. 39(2) Para. (b) imposes a minimum fine of £75, and para. (c) a minimum term of imprisonment of 2 years. I think this objectionable. It is contained in the old Order, but it is contrary to English principles and opportunity should be taken to abolish these minimum penalties.

s. 46(4) It is doubtful whether "within the year" means

means within the licensing year, or within any period of 365 days.

s. 49 It is uncertain whether this section makes it a substantive offence for a licence holder to permit another person to be on his premises during prohibited hours: or whether it merely deals with the evidence necessary to prove a sale within prohibited hours. If the latter, this is already an offence under s. 43.

s. 52 I cannot follow s. 5(2). There is no offence in this order, or so far as I know in any other, which a licensee under the premises liable to be disqualified... as described in (a). Para. (b) implies that there is a duty laid by law on the landlord of licensed premises to reject his tenant so soon as the latter is convicted of such an offence as above mentioned. This seems extraordinary, even if there is such an offence. It has the effect, so far as the tenant is concerned, of applying the penalty entailed by a second offence to the commission of the first.

s. 56 The reference in s. 5(1) to "s. 3(5) of s. 55" is clearly mistaken. Probably "s. 5(4)" is meant.

It will be seen that nearly all the above criticisms apply to the old Order also, but since the law is being amended and re-made, it would seem well to draw attention to these points.

W.L. Doe

12. 9. 35

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C.O. 533
455

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We shall have to say something about this Ordinance in any case.

The definition of "native" now proposed in Ordinance No. 55 of 1934 (the latest pronouncement which has just been passed by Council and has been sent home for examination) is "any person who is a member of or any one of whose parents is or was a member of an indigenous tribe or community in which term are included the people known as the Swahili, but the term native shall not include an Arab, an Abyssinian (Amhara, Tigre and Shoa), a Somali, a Baluchi born in Africa, a Malagasy or a Comoro Islander."

As Mr. Dale points out the inclusion of "Swahilis" as natives in the new Definition Ordinance would appear to be inconsistent with their special mention in Clause 2(b) of this one but I think the difficulty can be got over by the argument that they are included here on the grounds of greater caution. It is not the intention of Govt. that liquor shall be sold to the people called Swahilis and to remove all possible doubt they are carefully mentioned in the Ordinance. I therefore think we can leave that point alone.

Section 6 is a flat breach of the Convention. It is taken from the original Ordinance unchanged and that Ordinance was enacted in 1909 and was not amended after the conclusion of the Convention. The Convention prohibits categorically the distillation of spirituous beverages or the possession of stills

or

or parts of stills by anybody within the zone to which it applies which zone certainly includes Kenya. The object of the Convention in this respect goes, I think far beyond any idea of manufacture for sale. It was considered that stills as such were unholy things and that there was risk in allowing anybody to have a still which might result in the innocent black man learning the black art of distilling spirits. It therefore follows that nobody in Kenya ought to be allowed to have a still for making alcohol, no matter whether he makes it of his own fruit in his own back-garden for his own use or not, and I think the Secretary of State will have to point this out to Kenya and direct them to take a convenient opportunity of removing Section 6 from the Statute Book. I agree that it is idiotic but the Convention is a Convention and we can scarcely stand to be shot at on this ground.

With regard to Section 39(2) Mr. Dale objects on general grounds to the prescription of minimum terms of imprisonment and minimum fines. The objection on general grounds is a good one but on particular grounds and in the circumstances of Kenya I do not think it should be pressed. Every white man in Kenya ought to know that selling liquor to natives is regarded as a serious crime and in a place like Kenya it ought properly to be so regarded. In this direction the laying down of heavy minimum penalties for second and third offences is, I think, a useful deterrent and should be retained and enforced.

With regard to Section 46(4) on which Mr. Dale comments, I think that "within the year" means

or

or is intended to mean "within the preceding twelve months" as in the case of the immediately preceding sub section 46(3). We should, however, mention the point.

Section 52 on which Mr. Dale comments was taken verbatim from the old Ordinance Section 54. I think that what they are getting at is the case where a landlord owns several public houses and where it would be considered an injustice to deprive him of his property on the ground that a tenant whom he could not evict had rendered the licence liable to forfeiture. I do not think it is intended to imply that the owner ought to evict the tenant but it merely provides that the fact that he cannot evict is good ground for not disqualifying the premises simply on the ground of the default of the tenant.

With regard to Section 56 I think that sub-section 5 is a misprint for sub-sections 2, 3, and 4.

In replying we might make all these points as well as the point about the contravention of the St. Germaine Convention but there are sundry general things that occur to me.

This legislation has been hatched by a committee in Kenya and this committee has been and gone and governed itself on the Royal Commission on Licensing in this country. Now, I feel that the liquor laws and regulations in this country are nothing but a monument of legislative cowardice, gross injustice, and rank stupidity and it is very doubtful how far they should

5

should be applied to the totally different set of conditions existing in a colony. Everybody knows that the liquor rules and regulations are broken right, left and centre every hour of the day by otherwise law-abiding people. Why then should a young territory like Kenya be encouraged to set up a state of affairs which will lead to wholesale breaking of the law? For example Section 10(7)(a) provides that a club licence shall authorise the sale and supply of liquor in any quantity to the members of the club "for consumption on the premises in respect of which it has been issued". This means that if I, a member of a club in Nairobi, am in my club having lunch before starting on a motor drive and have a flask in my pocket which I wish to be filled with alcoholic refreshment for consumption when I reach my destination, I am breaking the law if I get it filled in the club. Is this sort of thing right, or can it be justified in any way? However, if the Secretary of State were to send a despatch to Kenya suggesting that these regulations were largely absurd and much too restrictive and grandmotherly he would be immediately exposed to onslaughts in this country from the Temperance party and as Kenya has produced this thing after mature deliberation I think perhaps it would be considered inadvisable to point out these various encroachments upon the liberty of the subject to have a drink when he wants to.

I do not, therefore, ^{propose} suggest that we should ~~not~~ suggest any alteration or amendment on general lines, but it might be sufficient to say that the Secretary of State notes that the Ordinance

H. E. Dale
Members don't
know what it
is. They probably have
a flask with
them in the car,
anyhow.

W.C.S.

has been apparently modelled largely on conditions and regulations in this country and has some doubt whether they are really applicable to the sale of liquor in a country like Kenya, but does not wish to make any further comment in view of the fact that the Ordinance is the work of a local committee including both Officials and Unofficials.

J. L. D. Dale
13.3.35

Let me see if it might be used to one of the Presidents who has any relevant info. In particular, the question of minimum punishment came up on Gold Coast & Nigeria papers on illicit distillation. I think it appeared that there was a minimum punishment.

[I see the principal arguments of minimum punishment in both Africa - possibly, the only one].

J. L. D. Dale
13.3.35

I would like to amplify what I have already said on the subject of minimum penalties. There is always the possibility of a hard case which could be argued for the English law (apart from capital offences) there is only one instance so far as I know in which a minimum

penalty is imposed. That is to be found in the Road Traffic Act 1930 s.15 (2), which provides that a person convicted under the section shall be disqualified for 12 months or less from holding a licence, unless the Court for special reasons thinks fit to order otherwise. If it is desired in the Kenya order to retain the minimum penalties, I think there ought to be added a qualifying clause in these words. I think also that apparently should be taken into the report to raise the points previously made by me at A and B.

J. L. D. Dale

28.3

Mr. Dale

I have had a revised draft prepared and I hope it meets your views. Please alter it as you think fit in case it is not clear.

J. L. D. Dale
29.3

Mr. Dale

I think this will do very well. I have made a few verbal alterations in the draft, and added para. 10, which was para. 6 of the first draft.

J. L. D. Dale
29.3

6/8
APR 1935

3 copies of draft, which he sent to J. L. D. Dale for transmission to Central Liquor Bureau.
2. Nilgiri to note as to illicit distillation in the mines, para. 10 and para. 11 of No. 3.

To Kenyan, Dec 3 (1 enclosed) cons.
To A. L. V. Wade 2/0
4/14/35

See 4548/32
W.A.
7 notes attached
C.L. 27/3/35

See serial
with original

This paper has been recirculated for
last copies of the Ordinance to be
sent to the 20 for transmission to the
Central Liquor Board at Brussels.
(See minutes of 24.11.34 in
this connection.)

Section 6 of the Ordinance will no
doubt provoke comment which
might be forestalled by our explaining
that the Government has been informed
that the provisions of that section
are not compatible with the
terms of the St Germain Conference.

Send 6 copies of the Ordinance
to 20 for communication to the
Central Liquor Board and explain
as above, adding that it has
been suggested to the Governor that
at the first convenient opportunity
Section 6 should be removed from
the Order, so that the distillation
of spirituous liquors may not be
legal in any circumstances.

C. J. G. [unclear]
17/4/35

J. J. O. [unclear]
9.4.35

DESTROYED UNDER STATUTE

To F.O. (W. Bureau Order L 211/1934) 13/4/35

encl. to note on at 4

B. Haugh Office _____ 2nd May 35
Trans. copy of despatch to H.M. Representative, Brussels,
containing copies of Ordinance 62 of 1934 for Central Liquor Bureau at Brussels
DESTROYED UNDER STATUTE

Put by [unclear]
17/4/35

9.29.35

M. A. [unclear] Secretary 30m (Commiss) _____ 11th July 35
Trans. 12 copies of Report of Select Committee on a Bill to amend
the Liquor Ordinance.

Shirley [unclear]

Put by [unclear] pending the receipt of the
new Bill

C. J. G. [unclear]
17/4/35
at [unclear]

8. Governor Bujine 1466 _____ 15 Sept 35
Trans. 2 authenticated + 12 plain copies of the Liquor
(Amend.) Ordinance No 27 of 1935, 4 pamphlets thereon, on various points
raised in Nos.

authenticated +
11 plain copies to
Shirley

The Governor has dealt fully with
the suggestions and comments in the
Sect's despatch of the 4th April
(No 3 on the file). There is however
a divergence of opinion with
regard to the points raised in
the 5th and 9th paragraphs of that
despatch. The more important
of the two is paragraph 9, which
deals with the question of

In the [unclear]
[unclear]

Minimum penalties. The A.G. uses the argument that conditions in the Colony and in England are quite different, & says that the principle of 'minimum penalties' has never worked harshly in the Colony. He is definitely not in favour of weakening the law in this respect. The former two devices that minimum penalties should be retained.

Subject to legal stress on these two points, and on the additional amendments which have been found to be necessary since the passing of the principal Ordinance - they are all shown in red ink in the copy of the 1935 Ordinance, flagged A - ? Ordinance XXVII of 1935 may be sanctioned in a short despatch.

(Copy of the new Ordinance should be sent to G.O. for transmission to the Central Liquor Board of Nov.)

Approved
S. J. 1935
M. J. 9

I have no objection on this order, which has carefully amended the first order, except as to the two points of minimum penalties (we can leave the point raised by us in para. 5 to their case; and though I think their

omission to deal with the point we made in para. 7 looks rather like real obstinacy, we can leave this too). But I think we ought to insist on the abolition of the minimum penalties. The reasons given in the despatch for their retention are poor. The efficacy of a penalty as a deterrent should depend on its upward limit being high enough, and on the harshness of a downward limit. The reasons come to this - that they cannot trust their courts to give a proper punishment if they really mean this, the remedy is to empower the courts. If they do not, there is nothing in their objections to removing minimum penalties.

(W.D.) ad.
10. x.

Most of the amendments in the Ordinance are improvements and the only point is whether we should rejoin the issue on the question of minimum penalties.

Speaking generally, it is impossible not to agree with Mr. Dale as to the undesirability of prescribing any minimum, but it must be remembered that Kenya attach great importance to the desirability of preventing the sale of spirits to their native population, and from what I have heard from various sources there can be no doubt that public opinion in Kenya is right on this subject. Further, it must be remembered that the licence holders will be Europeans and may be assumed to know perfectly well

what

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what they are doing, and, further, the minimum penalties only come into operation in the case of second and subsequent offences. The Attorney-General points out that the section reproduces the 1910 Ordinance and that very few prosecutions have to be instituted for offences against the Liquor Ordinance. It might be argued that the small number of prosecutions is not due to the penalties provided but rather to the superior intelligence of those who sell drink in Kenya, but it doesn't matter and I certainly do not advise that we should insist upon the removal of what Kenya considers a useful provision merely on the ground of its general unsuitability to legal or criminological theory. After all, it is the people in Kenya who have to live with the thing, and the absence of a heavy minimum penalty does serve a deterrent purpose and also serves to ensure that evidence is properly presented when there is a prosecution. Draft herewith.

J.F.O. 762

14.10.35.

We have a 50 year old letter -
national obligation to prevent
spirits being sold to East Africans
and, although Kenya
might well have done without
minimum penalties in the case of
later offences, I do not think that
we should even be able to do so.

the safeguard from here. And
I do not think that any safeguard
for the Bench is involved
in acting on the view that
the observance of such a
prohibition is essentially one
for the executive.

J.F.O. passed

G.C.D.

14.10.35

Noted
R. H. W.
21/10/35

Library (Legal) to note

15 J.F.O. 762

Ref. your minute
of 8/10

? copies of ascending
order. and sent to
sent to you.

J.F.O.

To Kenya, 851 (8 unavd) 17 OCT 1935 ✓

? Send 6 copies of Ordinance No. 2
to J.O. Ref. 6 for
transmission to the Central
Liquor Bureau at, Brussels

C. H. W. Smith

27/10/35

L. Brewster

23 Jan

10 To J.O. (1876 copies of Ord. 27/1935) 23/10/35 ✓

U. F. O.

19-11-35

DESTROYED UNDER STATUTE

copy of letter to H. H. Arch. Brunsdale
Judge. Six copies of Ord. No. 27 for
communication to the Central League Bureau.

Put by
A. J. Brown
6/27/35
at end

R

C O.

9 10 Nov 16

Mr. Flood. 14.10.35...

38028/35. Kenya.

Mr.

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

Downing Street.

X Sir C. Bottomley. 14.10.35

17 October, 1935.

Sir J. Shuckburgh

Perml. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Sir,

DRAFT.

G. D.
R 15 OCT
D 16.1

I have the honour to

acknowledge the receipt of your

despatch No. 466 of the 5th of

September, and to inform you that

His Majesty will not be advised to

exercise his power of disallowance

in respect of Ordinance No. 27 of 1935

of the legislature of Kenya, entitled

"An Ordinance to Amend the Liquor

Ordinance, 1934".

(8)

2. I note your comments upon

the various suggestions put forward

in Sir Philip Cunliffe-Lister's

despatch No. 243 of the 4th of April

and I have no desire to offer any

further

KENYA.
NO. 857
GOVERNOR.

FURTHER ACTION.

further remarks. As regards the question of the minimum penalty prescribed for second and subsequent offences of selling intoxicating liquor to natives, I should be disposed on general grounds to press the objection, which undoubtedly exists to any minimum penalty being prescribed in ^{a Law} an Ordinance, but, in the special circumstances, and having regard to the nature of the offence, I shall raise no objection to the retention of the existing provision in Kenya's legislation.

I have, etc.

(Sgd.) MALCOLM MacDONALD

"on the point. As I understand the provision, it is that the distinction made between an application for a new licence and for a renewal or removal of a licence is deliberate. An applicant for a renewal or removal does not anticipate court objections and may not be present; hence the adjournment. But an applicant for a new licence is on a different footing and will in practically every case be in court himself or represented by an advocate. There is no need for an adjournment".

In the circumstances I concur in the opinion of the Attorney General that no amendment would appear to be required.

The typographical error has been corrected, see Section 10 of the amending Ordinance.

Paragraph 6. See Section 19 of the amending Ordinance.

Paragraph 7. The Attorney General advises that no difficulty has been experienced in the interpretation of this provision since its original enactment in Chapter 71, and does not consider an amendment to be necessary.

Paragraph 8. The Attorney General advises the anomaly had already been noticed, and that the position is covered by Section 20 of the amending Ordinance which renders the premises subject to disqualification in certain circumstances.

Paragraph 9. The Attorney General advises:-
 "Here again the section merely reproduces the law which existed for 25 years. The conditions in this Colony and in England are disparate, and the section has not, to the

best,

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3.

"best of my knowledge, worked harshly. This Colony is fortunate in that very few prosecutions have to be instituted for offences against the Liquor Ordinance, and that is probably attributable to the severity of the penalties provided. In any case I think it absolutely essential that the law relating to the sale of liquor to natives and like persons should provide an effective deterrent, and I am not in favour of weakening the law in this respect".

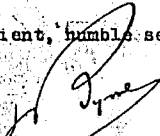
and I trust that in the circumstances you will agree to the retention of the existing provision.

Paragraph 10. See Section 23 of the amending Ordinance.

I have the honour to be,

Sir,

Your most obedient, humble servant,



BRIGADIER-GENERAL.
G O V E R N O R.

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LEGAL REPORT

THE LIQUOR (AMENDMENT) BILL, 1935

This Bill amends the Liquor Ordinance, 1934, in the following respects -

1. Clause 2 is designed to make it clear that the provisions of the law relating to applications for and the holding of licences do not apply to the sale of liquor to passengers in, and to the crew of, ships in the coastal harbours of the Colony.

No: 6 of the Principal Ordinance conflicts with the provisions of the treaty of St. Germain-en-Laye, 1919, relating to the distillation of spirituous beverages and the possession of stills. The section has, therefore, to be repealed.

3. The numerous amendments contained in Clause 5 of the Bill are designed to stress the fact that neither the premises nor the licensee are separately licensed, but that a licence issued under the Ordinance authorizes the sale of liquor on specified premises by a specified licensee.

6. The provisions to section 10(5) of the Principal Ordinance have been repealed and replaced by a provision which is designed to ensure that the provisions of the Shops Hours Ordinance, 1928, will prevail in respect of hours during which liquor may be sold under a Wine Merchants and Grocers Licence.

(2) The provisions of section 10(1)(a) of the Principal Ordinance in practice to act harshly on small country Clubs and its terms have been modified to meet local conditions.

Sub-sections (12) and (14) of section 10 of the Principal Ordinance have been amended so as to exempt

14

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Restaurant Cars and Steamships under the control of the High Commissioner for Transport from the provisions of section 33 of the Principal Ordinance relating to the giving of thirty days' notice before transfer.

(2) Sub-section (16) of section 10 of the Principal Ordinance has been amended so as to enable the District Commissioner to impose conditions when granting a temporary extension licence.

Sub-section (18) of section 10 has been repealed and replaced in order to remove an ambiguity.

A new sub-section (No.(20)) has been added to section 10 to deal with the grant of licences to corporations.

(2) 5. Under section 11 of the Principal Ordinance it is possible for a Municipal Council or a Municipal Board to object to any application for a licence under the Ordinance while at the same time a representative of such Council or Board is a member of the licensing court which adjudicates upon the application. This is considered to be inequitable, and Clause⁶ of the Bill amends section 11 of the Principal Ordinance so as to provide that, in cases where the Municipal Council or Board opposes the application, the member of the Council or Board, who is appointed by the Governor to be a member of the licensing court, shall not adjudicate upon the application.

6. Representations have been received to the effect that the dates on which the licensing courts are at present held leave no time for an aggrieved party to appeal against an unfavourable decision of the licensing court, and it is therefore proposed with effect from the 1st July, 1935, to hold meetings of the licensing courts in May and November instead of in the months of June and December.

7. Provision is made in Clause 9(3) for a licensee to apply for a change of licence, that is to say, for a licence of a type different from his existing licence.

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8. Clauses 14 and 15 of the Bill provide for a temporary transfer of a licence to the owner of the premises, or to a person nominated by him, of a forfeited licence. This is based on the provisions of the existing English law.

(2) 9. Clause 17 amends section 43 of the Principal Ordinance so as to allow fifteen minutes after the closing hour for the consumption of liquor purchased before that hour.

10. Clause 20 is adopted from English legislation and provides that premises may be disqualified from being licensed when two orders of forfeiture of a licence in respect of those premises have been made within two years.

11. Clause 22 makes an employer liable for offences committed by his employees.

(2) 12. Under the Principal Ordinance annual licences over a certain cost may be paid for in two instalments, but if the second instalment is not paid by the 30th June the licence automatically lapses. This is considered to be too drastic and Clause 24 is designed to give a licensee fourteen days grace in which to pay the second instalment with a penalty of 10 per cent added in respect of his failure to pay the instalment by the due date. If, however, he fails to pay within that period of grace his licence will be deemed to have lapsed on the 30th June.

(2) The new sub-section (3) added to section 63 of the Principal Ordinance and the amendment to the Schedule deal with refunds and remissions of licence fees.

13. The replacement of section 66 of the Principal Ordinance by Clause 25 is designed to clarify the position in regard to costs incurred by members of the licensing court in legal proceedings instituted against them in their official capacity.

No 3 14. The amendments suggested by the Secretary of State in paragraphs 3, 4, 6, 8 and 10 of his Despatch No. 243 of the 4th April, 1935, have been embodied in the Bill. In

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view of representations received from the Baluchi Community, references to Baluchis born in Africa have been deleted from the Principal Ordinance as have also any references to Swahilis.

The other amendments effected by the Bill and to which specific reference has not been made are of a verbal nature and call for no comment.

A copy of the Liquor Ordinance, 1934, showing the amendments made thereto by the Bill, together with a Comparative Table, is enclosed for submission to the Secretary of State.

In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

Nairobi,
12th August, 1935.

T. D. Hanna
SOLICITOR GENERAL
for ATTORNEY GENERAL

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COMPARATIVE TABLE

THE LIQUOR (AMENDMENT) BILL, 1935

Clause of the Bill.	Remarks.
1.	Short title.
2.	New.
3.	New.
4.	New.
5.	New.
6.	New.
7.	New.
8.	New.
9.	New.
10.	New.
11.	New.
12.	New.
13.	New.
14.	Cf. Section 36 of the Licensing (Consolidation) Act, 1910 (England).
15.	New.
16.	New.
17.	Cf. Section 5(d) of the Licensing Act, 1921 (England).
18.	New.
19.	New.
20.	Cf. Section ⁸⁷ of the Licensing (Consolidation) Act, 1910 (England).
21.	New.
22.	New.
23.	New.
24.	New.
25.	New.
26.	New.
27.	New.
28.	New.

PUBLIC RECORD OFFICE.

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Reference -

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OF
THE LIQUOR ORDINANCE, 1934, SHOWING IN RED
INK THE AMENDMENTS MADE BY THE LIQUOR
(AMENDMENT) BILL, 1935.

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No. LXII

1934



Colony and Protectorate of Kenya

IN THE TWENTY-FIFTH YEAR OF THE REIGN OF
His Majesty King George V.

JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.,
Governor.

AN ORDINANCE TO PROVIDE FOR
THE CONTROL OF THE SALE OF
LIQUOR

- (5) To the sale to persons, other than natives, Swahilis, Somalis, Baimbis—born in Africa, Malagases, or Comoro Islanders, by a deceased person's legal personal representative of any liquor forming part of the estate of such deceased person.
- (6) To any person acting under the authority of any court or to any officer of customs in the exercise or discharge of his duties.

3. In this Ordinance unless inconsistent with the context—

"habitual drunkard" means any person convicted under this Ordinance, or under any other law, of being drunk and disorderly or drunk and incapable who has been so convicted on three other occasions within twelve months immediately preceding such conviction. Such person shall, however, cease to be a habitual drunkard if at any time thereafter he shall not again be so convicted for a period of twelve consecutive months;

"intoxicating liquor" or "liquor" means any spirit, wine, ale, beer, porter, cider, perry, hop beer, and any liquor of a strength exceeding 3 per centum of proof spirit, and any other liquor which the Governor may, from time to time, declare by proclamation to be included in this definition; but does not include native intoxicating liquor as defined in the Native Liquor Ordinance, 1930;

"intoxicating medicine" means any patent or proprietary medicine which the Governor may, by proclamation, declare to be an intoxicating medicine;

"licence" means any licence for the sale or manufacture of liquor granted under this Ordinance;

"licensing area" means a district or a group of districts which the Governor may, by notice in the Gazette, declare to be a licensing area for the purposes of this Ordinance;

"meal" means a luncheon, dinner or supper actually supplied for which a price of not less than one shilling per head is actually paid or bona fide to be paid;

"methylated spirits" means spirits with which any substance is mixed so as to render the mixture unfit for human consumption as a beverage;

Interpretation

text—

to the applica-
only to the
lony, other
in respect
ger theroh
h fessel, of

Certain
provisions
not to apply
to ships in
coastal
harbours.

"new licence" means a licence applied for in respect of premises not licensed for the sale of intoxicating liquor at the date of application therefor;

"spirituous liquor" means liquor manufactured by any process of distillation.

4. (1) No person shall sell any intoxicating liquor or manufacture any malt liquor in the Colony without a licence.

(2) No person licensed under this Ordinance for the sale of intoxicating liquor for consumption on the premises shall sell or keep or permit to be sold or kept on the licensed premises methylated or other denatured spirits.

5. (1) Save as otherwise provided by the Industrial Alcohol Ordinance it shall not be lawful for any person within the Colony to distil wine or spirituous liquors from any article.

(2) Any person contravening the provisions of this section shall on conviction be liable to the penalties provided in section 38 of this Ordinance, and all the liquor and all the machinery used for such distilling or manufacture found on his premises may be forfeited.

6. The provisions of section 5 of this Ordinance shall not apply to the owner or occupier of land distilling wine or spirituous liquor from the grapes or fruits grown on such land for his own use.

LICENCES.

7. The licences to be granted under this Ordinance shall be issued by the district commissioners in the several districts of this Colony who shall, in regard to the issue of such licences and to any privilege allowed or granted to the holders thereof to be noted or endorsed upon any licence, conform to the provisions of this Ordinance and to any rules made by the Governor relating to the performance of their duties under this Ordinance.

8. For or in respect of licences granted or renewed or transfers or removals or privileges allowed to the holders of licences under and in terms of this Ordinance there shall be paid to the district commissioner the fees set out in the Schedule hereto.

The sale or
manufacture
of liquor with-
out a licence
prohibited.
Licence does
not authorize
sale of
methylated
spirits.

Prohibition
of distilling.
Cap. 102.

Exemption
from pro-
hibition of
distilling.

Issue of
licences.

Fees to be
paid in respect
of licences.

(5) To the sale to persons, other than natives, Swahilis, Somalis, Betschis born in Africa, Malagasies, or a lodger on the premises, of liquor for the use of the deceased person's legal representative of any liquor forming part of the estate of such deceased person. Provided that the sale of liquor in acting under the authority of any court or officer of customs in the exercise or discharge of his duties shall not be authorized between the hours of 11 p.m. and 12 midnight unless such duties are of a special nature.

Interpretation

3. In this Ordinance unless inconsistent with the context—

"habitual drunkard" means any person convicted under this Ordinance, or under any other law, of being drunk and disorderly or drunk and incapable who has been so convicted on three other occasions within twelve months immediately preceding such conviction. Such person shall, however, cease to be a habitual drunkard if at any time thereafter he shall not again be so convicted for a period of twelve consecutive months;

"intoxicating liquor" or "liquor" means any spirit, wine, ale, beer, porter, cider, perry, hop beer, and any liquor of a strength exceeding 3 per centum of proof spirit, and any other liquor which the Governor may, from time to time, declare by proclamation to be included in this definition, but does not include native intoxicating liquor as defined in the Native Liquor Ordinance, 1930;

"intoxicating medicine" means any patent or proprietary medicine which the Governor may, by proclamation, declare to be an intoxicating medicine;

"licence" means any licence for the sale or manufacture of liquor granted under this Ordinance;

"licensing area" means a district or a group of districts which the Governor may, by notice in the Gazette, declare to be a licensing area for the purposes of this Ordinance;

"meal" means a luncheon, dinner or supper actually supplied for which a price of not less than one shilling per head is actually paid or bona fide to be paid;

"methylated spirits" means spirits with which any substance is mixed so as to render the mixture unfit for human consumption as a beverage;

No. 38 of 1930

"new licence" means a licence applied for in respect of premises not licensed for the sale of intoxicating liquor at the date of application therefor;

"spirituous liquor" means liquor manufactured by any process of distillation.

45 (1) No person shall sell any intoxicating liquor or manufacture any malt liquor in the Colony without a licence.

The sale or manufacture of liquor without a licence is prohibited. Licence does not authorize sale of methylated spirits.

(2) No person licensed under this Ordinance for the sale of intoxicating liquor for consumption on the premises shall sell or keep or permit to be sold or kept on the licensed premises methylated or other denatured spirits.

5. (1) Save as otherwise provided by the Industrial Alcohol Ordinance it shall not be lawful for any person within the Colony to distil wine or spirituous liquors from any article.

Prohibition of distilling. Cap. 102.

(2) Any person contravening the provisions of this section shall on conviction be liable to the penalties provided in section 38 of this Ordinance, and all the liquor and all the machinery used for such distilling or manufacture found on his premises may be forfeited.

6. The provisions of section 5 of this Ordinance shall not apply to the owner or occupier of land distilling wine or spirituous liquor from the grapes or fruits grown on such land for his own use.

Exemption from restriction of distilling.

LICENCES.

7. The licences to be granted under this Ordinance shall be issued by the district commissioners in the several districts of this Colony who shall, in regard to the issue of such licences and to any privilege allowed or granted to the holders thereof to be noted or endorsed upon any licence, conform to the provisions of this Ordinance and to any rules made by the Governor relating to the performance of their duties under this Ordinance.

Issue of licences.

8. For or in respect of licences granted or renewed or transfers or removals or privileges allowed to the holders of licences under and in terms of this Ordinance there shall be paid to the district commissioner the fees set out in the Schedule hereto.

Fees to be paid in respect of licences.

(5) To the sale to persons, other than natives, Swahilis, Somalis, Beluchis born in Africa, Malagasies, or other lodger on the premises, of liquor for flanders, by a deceased person's legal representative of any liquor forming part of such stock between the hours of 10 a.m. and such deceased person's death.

9 midnight: Provided that the sale of liquor in acting under the authority of any court.

such guest shall not be authorized between 11 p.m. and 12 midnight unless such duties.

3. In this Ordinance unless inconsistent with the context—

"habitual drunkard" means any person convicted under this Ordinance, or under any other law, of being drunk and disorderly or drunk and incapable who has been so convicted on three other occasions within twelve months immediately preceding such conviction. Such person shall, however, cease to be a habitual drunkard if at any time thereafter he shall not again be so convicted for a period of twelve consecutive months;

"intoxicating liquor" or "liquor" means any spirit, wine, ale, beer, porter, cider, perry, hop beer, and any liquor of a strength exceeding 3 per centum of proof spirit, and any other liquor which the Governor may, from time to time, declare by proclamation to be included in this definition, but does not include native intoxicating liquor as defined in the Native Liquor Ordinance, 1930;

"intoxicating medicine" means any patent or proprietary medicine which the Governor may, by proclamation, declare to be an intoxicating medicine;

"licence" means any licence for the sale or manufacture of liquor granted under this Ordinance;

"licensing area" means a district or a group of districts which the Governor may, by notice in the Gazette, declare to be a licensing area for the purposes of this Ordinance;

"meal" means a luncheon, dinner or supper actually supplied for which a price of not less than one shilling per head is actually paid or bona fide to be paid;

"methylated spirits" means spirits with which any substance is mixed so as to render the mixture unfit for human consumption as a beverage;

No. 38 of 1930

"new licence" means a licence applied for in respect of premises not licensed for the sale of intoxicating liquor at the date of application therefor;

"spirited liquor" means liquor manufactured by any process of distillation.

4. (1) No person shall sell any intoxicating liquor or manufacture any malt liquor in the Colony without a licence.

(2) No person licensed under this Ordinance for the sale of intoxicating liquor for consumption on the premises shall sell or keep or permit to be sold or kept on the licensed premises methylated or other denatured spirits.

5. (1) Save as otherwise provided by the Industrial Alcohol Ordinance it shall not be lawful for any person within the Colony to distil wine or spirited liquors from any article.

(2) Any person contravening the provisions of this section shall on conviction be liable to the penalties provided in section 88 of this Ordinance, and all the liquor and all the machinery used for such distilling or manufacture found on his premises may be forfeited.

6. The provisions of section 5 of this Ordinance shall not apply to the owner or occupier of land distilling wine or spirited liquor from the grapes or fruits grown on such land for his own use.

LICENCES.

7. The licences to be granted under this Ordinance shall be issued by the district commissioners in the several districts of this Colony who shall, in regard to the issue of such licences and to any privilege allowed or granted to the holders thereof to be noted or endorsed upon any licence, conform to the provisions of this Ordinance and to any rules made by the Governor relating to the performance of their duties under this Ordinance.

8. For or in respect of licences granted or renewed or transfers or removals or privileges allowed to the holders of licences under and in terms of this Ordinance there shall be paid to the district commissioner the fees set out in the Schedule hereto.

The sale or manufacture of liquor without a licence prohibited. Licence does not authorize sale of methylated spirits.

Prohibition of distilling. Cap. 102.

Exemption from prohibition of distilling.

Issue of licences.

Fees to be paid in respect of licences.

- (5) To the sale to persons, other than natives, Swahilis, Somalis, Batschis-born in Africa, Malagasies, or a lodger on the premises, of liquor for tinders, by a deceased person's legal representative on the premises by the guests' representative of any liquor forming part of such lodger between the hours of 10 a.m. and of such deceased person.
- midnight: Provided that the sale of liquor in acting under the authority of any court, such guest shall not be authorized between the hours of 10 a.m. and 12 midnight unless such duties.

Interpretation

8. In this Ordinance unless inconsistent with the context—

"habitual drunkard" means any person convicted under this Ordinance, or under any other law, of being drunk and disorderly or drunk and incapable who has been so convicted on three other occasions within twelve months immediately preceding such conviction. Such person shall, however, cease to be a habitual drunkard if at any time thereafter he shall not again be so convicted for a period of twelve consecutive months;

"intoxicating liquor" or "liquor" means any spirit, wine, ale, beer, porter, cider, perry, hop beer, and any liquor of a strength exceeding 3 per centum of proof spirit, and any other liquor which the Governor may, from time to time, declare by proclamation to be included in this definition; but does not include native intoxicating liquor as defined in the Native Liquor Ordinance, 1930;

"intoxicating medicine" means any patent or proprietary medicine which the Governor may, by proclamation, declare to be an intoxicating medicine;

"licence" means any licence for the sale or manufacture of liquor granted under this Ordinance;

"licensing area" means a district or a group of districts which the Governor may, by notice in the Gazette, declare to be a licensing area for the purposes of this Ordinance;

"meal" means a funcheon, dinner or supper actually supplied for which a price of not less than one shilling per head is actually paid or bona fide to be paid;

"methylated spirits" means spirits with which any substance is mixed so as to render the mixture unfit for human consumption as a beverage;

"new licence" means a licence applied for in respect of premises not licensed for the sale of intoxicating liquor at the date of application therefor;

"spirituous liquor" means liquor manufactured by any process of distillation.

44. (1) No person shall sell any intoxicating liquor or manufacture any malt liquor in the Colony without a licence.

(2) No person licensed under this Ordinance for the sale of intoxicating liquor for consumption on the premises shall sell or keep or permit to be sold or kept on the licensed premises methylated or other denatured spirits.

5. (1) Save as otherwise provided by the Industrial Alcohol Ordinance it shall not be lawful for any person within the Colony to distil wine or spirituous liquors from any article.

(2) Any person contravening the provisions of this section shall on conviction be liable to the penalties provided in section 38 of this Ordinance, and all the liquor and all the machinery used for such distilling or manufacture found on his premises may be forfeited.

6. The provisions of section 5 of this Ordinance shall not apply to the owner or occupier of land distilling wine or spirituous liquor from the grapes or fruits grown on such land for his own use.

LICENCES.

7. The licences to be granted under this Ordinance shall be issued by the district commissioners in the several districts of this Colony who shall, in regard to the issue of such licences and to any privilege allowed or granted to the holders thereof to be noted or endorsed upon any licence, conform to the provisions of this Ordinance and to any rules made by the Governor relating to the performance of their duties under this Ordinance.

8. For or in respect of licences granted or renewed or transfers or removals or privileges allowed to the holders of licences under and in terms of this Ordinance there shall be paid to the district commissioner the fees set out in the Schedule hereto.

Description of licences. 9. Licences of the several descriptions following may be granted under this Ordinance:—

- (1) A wholesale liquor licence.
- (2) An hotel liquor licence.
- (3) A restaurant or café liquor licence.
- (4) A malt liquor licence.
- (5) A wine merchant's and grocer's liquor licence.
- (6) A general retail liquor licence.
- (7) A railway station liquor licence.
- (8) A theatre liquor licence.
- (9) A temporary liquor licence.
- (10) A brewer's liquor licence.
- (11) A steamship liquor licence.
- (12) A canteen liquor licence.
- (13) A railway restaurant car liquor licence.
- (14) A camp canteen liquor licence.
- (15) A temporary extension licence.
- (16) A proprietary club liquor licence.
- (17) A members' club liquor licence.

Varieties of licence.

10. In regard to licences granted under this Ordinance the following definitions and provisions shall apply:—

Wholesale licence.

(1) A Wholesale Liquor Licence shall authorize the holder to sell and deliver liquor of one trade description in quantities of not less than two gallons, if in cask, or in not less than twelve reputed quart bottles or twenty-four reputed pint bottles to be delivered at one time to one person to be consumed elsewhere than on the premises specified in such licence.

(b) Such licence may be issued to an individual or to a company or partnership when two or more persons carry on a business as a company or partnership in the same premises.

Hotel liquor licence.

- (2) (a) An Hotel Liquor Licence shall authorize the sale—
- (i) to a lodger on the premises, of liquor for his own consumption on the premises on any day at any hour;
 - (ii) to a lodger on the premises, of liquor for the consumption on the premises by the guests of such lodger between the hours of 10 a.m. and 12 midnight: Provided that the sale of liquor to

such guests shall not be authorized between the hours of 11 p.m. and 12 midnight unless such liquor is required for consumption at a meal to be consumed on the premises.

- (b) No such licence shall be granted unless it is proved to the satisfaction of the licensing court that the premises afford reasonable accommodation for visitors and are provided with proper sanitary arrangements.
- (c) Nothing in this section contained shall prevent the grant or renewal of a general retail liquor licence as well as an hotel liquor licence to the keeper of an hotel.
- (3) A Restaurant or Café Liquor Licence shall, save as herein provided, authorize the sale of liquor by retail on any day between the hours of 10 a.m. and 12 midnight to persons taking meals in the restaurant or café in respect of which such licence has been granted, to be consumed at such meals: Provided that, in the case of Sundays, Good Friday and Christmas Day the following hours shall be the hours during which the sale of such liquor shall be authorized:—

Restaurant or Café liquor licence.

In the Colony of Kenya:

Sundays and Good Fridays	12 noon to 2.30 p.m.
	and
	6 p.m. to 9 p.m.
Christmas Day	12 noon to 3 p.m.
	and
	6 p.m. to 11 p.m.

In the Protectorate of Kenya:

Sundays and Good Fridays	11 a.m. to 1.30 p.m.
	and
	6 p.m. to 9 p.m.
Christmas Day	11 a.m. to 2 p.m.
	and
	6 p.m. to 11 p.m.

- (4) A Malt Liquor Licence shall, save as herein provided, authorize the sale of ale, beer, porter, cider, perry and hop beer to be consumed on the premises specified in the licence on any day between the hours of 10 a.m. and 11 p.m.: Provided that, in the case

Malt liquor licence.

of Sundays, Good Friday and Christmas Day, the following hours shall be the hours during which the sale of such ale, beer, porter, cider, Perry and hop beer shall be authorized:—

In the Colony of Kenya:

Sundays and Good Fridays ... 12 noon to 2.30 p.m.
and
6 p.m. to 9 p.m.
Christmas Day ... 12 noon to 3 p.m.
and
6 p.m. to 11 p.m.

In the Protectorate of Kenya:

Sundays and Good Fridays ... 11 a.m. to 1.30 p.m.
and
6 p.m. to 9 p.m.
Christmas Day ... 11 a.m. to 2 p.m.
and
6 p.m. to 11 p.m.

Wine
Merchant's
and Grocer's
licence.

- (5) Save as is provided in this sub-section a Wine Merchant's and Grocer's Licence shall authorize the sale of the premises therein specified and for consumption elsewhere than on such premises on any day between the hours of 6 a.m. and 9 p.m. of not less than one reputed quarter-pint bottle securely corked and stoppered:

Provided that, in any municipality, township or area to which the Shop Hours Ordinance, 1925, has been applied, unless the premises in respect of which such licence has been granted are used solely for the purpose of the sale of intoxicating liquor, such licence shall authorize such sale only between the hours of 6 a.m. and 6 p.m.:

Provided further that, notwithstanding the provisions of the Shop Hours Ordinance, 1925, it shall be lawful for the holder of such licence to sell such liquor on Sundays, Good Friday and Christmas Day between the hours of 9 a.m. and 12 noon.

- (6) A General Retail Liquor Licence shall, save as herein provided, authorize the sale of liquor in any quantities on the premises therein specified on any day between the hours of 10 a.m. and 12 midnight for consumption on or off the premises: Provided that, in the

General
Retail liquor
licence.

case of Sundays, Good Friday and Christmas Day, the following hours shall be the hours during which the sale of such liquor shall be authorized:—

In the Colony of Kenya:

Sundays and Good Fridays ... 12 noon to 2.30 p.m.
and
6 p.m. to 9 p.m.
Christmas Day ... 12 noon to 3 p.m.
and
6 p.m. to 11 p.m.

In the Protectorate of Kenya:

Sundays and Good Fridays ... 11 a.m. to 1.30 p.m.
and
6 p.m. to 9 p.m.
Christmas Day ... 11 a.m. to 2 p.m.
and
6 p.m. to 11 p.m.

Provided further that notwithstanding the provisions of this sub-section the sale of liquor between the hours of 11 p.m. and 12 midnight shall not be authorized except for consumption at a meal to be consumed on the premises.

- (7) (a) A Proprietary or Members' Club Liquor Licence shall authorize the sale and supply of liquor in any quantity to the members of the club at any time for consumption on the premises in respect of which it has been issued: Provided that no place of accommodation, entertainment or refreshment shall be considered to be a club where persons other than members or the invited guests of members are allowed entry or accommodation or where persons other than members are charged or permitted to pay for any refreshment or accommodation they may obtain therein.
- (b) Every club licence shall be issued to the proprietor, secretary or manager of the club.

No transfer of any such licence shall be necessary upon any change of any such proprietor, secretary or manager, but the person for the time being holding any such office shall be entitled to the privileges granted by the licence and shall be subject to the duties and liabilities imposed upon the holder thereof.

Railway station liquor licence.

(8) (a) A Railway Station Liquor Licence shall authorize the sale of liquor by retail at any railway station refreshment room, or other railway premises named in such licence to bona-fide passengers travelling by train or lawfully using the railway premises for railway purposes.

(b) An applicant for a Railway Station Liquor Licence must produce a written recommendation from the manager of the railway that such licence be granted or renewed to such applicant.

Theatre liquor licence.

(9) A Theatre Liquor Licence shall authorize the holder thereof to sell (in any building a portion of which is used as a place of entertainment) by retail, on any day at such hours between the hours of 2 p.m. and 12 midnight as the entertainment may continue, to members of the staff of the theatre and to members of the audience at and to the performers in such entertainment, liquor for consumption on the premises in respect of which the licence has been granted.

Temporary liquor licence.

(10) (a) A Temporary Liquor Licence shall authorize the holder, being also a holder of a general retail liquor licence, to sell liquor by retail at any place of recreation or public amusement or other assembly for the period during which such recreation or amusement continues, subject to such restrictions and conditions as the district commissioner authorizing the issue of the licence may think fit.

(b) No certificate from a licensing court shall be required in respect of the grant of such licence.

(c) The licence shall specify the name of the applicant, the place for which such temporary licence is granted the number of days and the hours during which the sale thereunder is authorized and such restrictions and conditions as the district commissioner may impose: Provided that the number of days mentioned in such licence shall not exceed three.

(d) The officer issuing the licence shall give notice to the police officer in charge of the district in which the place for which such licence has been granted is situate of the grant of any temporary liquor licence and the particulars thereof.

(11) (a) A Brewer's Liquor Licence shall authorize the holder thereof to manufacture malt liquor and to sell such liquor by wholesale only.

Brewer's liquor licence.

(b) The provisions of sub-section (1) of this section shall apply *mutatis mutandis* to such licence.

(12) (a) A Steamship Liquor Licence shall authorize the holder to sell any liquor on board a steamship plying on Lake Victoria or on other inland waters.

Steamship liquor licence.

(b) A Steamship Licence shall specify the steamship to which the licence is issued and shall be valid only in respect of such steamship. (b) by inserting the words "on the premises" between the worded and shall be valid and the dash in the fifth line of sub-section thereof:

11) by deleting therefrom sub-section (18) which is issued on such steamship substituting therefor the following: "Nothing in this section shall apply to any steamship."

(18) Nothing in this section shall authorize the holder to sell liquor, cigars, cigarettes or other similar articles on the premises set apart as a canteen, club, institute, mess or other similar institution for consumption on the licensed premises only.

Canteen liquor licence.

(b) If a district commissioner is satisfied that the profits derived by any such canteen, club, institute, mess or other similar institution from the sale of liquor are devoted solely to the benefits of the funds of such canteen, club, institute, mess or other similar institution, he may, notwithstanding the provisions of this Ordinance, issue a Canteen Liquor Licence free of charge.

(c) A district commissioner may, without requiring the certificate of any licensing court, issue a Canteen Liquor Licence or a Camp Canteen Liquor Licence, to such person as the officer commanding the force or regiment in respect of which the licence is required shall nominate.

Railway
Restaurant
Car liquor
licence.

- (14) (a) A Railway Restaurant Car Liquor Licence shall authorize the holder to sell any liquor on a railway restaurant car.
- (b) Such licence shall be necessary in respect of each restaurant car.
- (c) No liquor shall be sold under such licence except to passengers travelling by the train to which such restaurant car is attached.

Camp Canteen
liquor licence.

No. 12 of 1928.

- (15) A Camp Canteen Liquor Licence shall be valid for the duration of a training camp held under the provisions of the Defence Force Ordinance, 1927, or for seven days, whichever period is the shorter, and shall authorize the sale of liquor at the camp for consumption in the camp.

Temporary
Extension
Licence.

- (16) (a) A Temporary Extension Licence may be granted by a district commissioner to the holder of a General Retail Liquor Licence or of a Restaurant or Café Liquor Licence and shall authorize the sale of liquor.

(i) in respect of any day, other than a Sunday or Good Friday, between the hours of 11 o'clock at night and 2 o'clock in the morning on any particular day specified therein;

(ii) in respect of a Sunday, between the hours of 9 o'clock and 11 o'clock at night.

- (b) No such licence shall be granted in respect of a Good Friday.

- (c) For the purposes of sub-paragraph (i) of paragraph (a) of this sub-section "day" means any period of twenty-four hours ending at 6 o'clock in the morning.

- (17) No licence which authorizes the sale of any liquor for consumption on the premises shall be granted by any licensing court, or in the case of a temporary liquor licence by any district commissioner unless it is proved to the satisfaction of such licensing court or of such district commissioner, as the case may be, that the premises are provided with proper sanitary arrangements.

- (18) Nothing in this section contained shall be construed to mean that the holder of a Restaurant or Café Liquor Licence, or a General Retail Liquor Licence

"(18) Nothing in this section contained shall be construed to mean, that the holder of licence, granted under the provisions of this Ordinance shall be compelled to sell liquor, cigars, cigarettes, tobacco or matches during the hours in which he is authorized by his licence to sell such liquor, cigars, cigarettes, tobacco and matches," and

Provision of
sanitary
arrangements
on premises.

Sale during
11 p.m. to
12 midnight
permission not
compulsory.

visions of section 33 of this Ordinance they relate to the giving of thirty days for the removal of a licence from premises to other premises may be not apply to the removal of a Restaurant Car Liquor Licence from the premises of which it has been granted. Provided that the provisions of this paragraph shall only apply to a Restaurant Car Liquor Licence in respect of a Restaurant Car under the control of the Government for Transport."

"The district commissioner may grant such licence subject to such reasonable restrictions and conditions as he may seem fit: Provided that such restrictions and conditions shall not in any case be so unduly to restrict the amenities which, in the granting of the licence, it is proposed to

shall be compelled to sell liquor between the hours of 11 p.m. and 12 midnight, or, in the case of the holder of an Hotel Liquor Licence, that the holder thereof shall be compelled to sell liquor to a lodger on the premises for the consumption by the guests of such lodger between such hours.

- (19) Notwithstanding the provisions of the Licensing Ordinance, 1933, or of any Ordinance amending or replacing the same, every liquor licence granted under the provisions of this Ordinance shall authorize the holder of such licence to sell, during the hours during which the sale of liquor is authorized under such licence, cigars, cigarettes, tobacco and matches.

Licence to
include sale
of tobacco.

(20) (a) A licence to a body corporate or to the manager of a premises.
(b) No trade necessary upon of secretary or office shall be by, and shall be, lies imposed.

LICENSING COURTS.

11. (a) The Governor may appoint in and for any licensing area a licensing court for the consideration and determination of applications for or relating to the granting, renewal or transfer of licences for the sale of intoxicating liquor and for the manufacture of malt liquor within such licensing area.

Appointment
of licensing
courts.

(b) Every licensing court so appointed shall consist of not more than seven and not less than three persons residing in such licensing area.

Provided that, where in any licensing area there is established a Municipal Council or a Municipal Board, one of the members of the licensing court for such area shall be a member of such Municipal Council or Board who shall be appointed by the Governor with the approval of such Municipal Council or Board.

"Provided further in any case where the Member of which he is a member of such licensing court,

12. (1) The following persons shall be disqualified for appointment, and if appointed shall not continue, as members of a licensing court:—

Disqualifica-
tion of
members of
court.

- (a) The holder of any licence for the sale or manufacture of liquor.
- (b) Any person interested or concerned in any partnership or company with any holder of such licence as aforesaid or with any brewer.
- (c) Any paid officer or paid agent of any partnership or society interested in the sale, or the prevention of the sale, of intoxicating liquor.

- (d) Any person employed directly or indirectly as an agent for the purpose of making application for a licence for any other person, or any partner of any person so employed as an agent.
- (e) Any person being the agent or manager of, or a partner in, any trade or calling carried on upon any premises licensed or in respect of which an application for a licence has been made, or the owner or lessor of or the holder of any mortgage in respect of such premises.
- (f) An undischarged bankrupt.
- (g) Any person who, in the Colony or elsewhere, has had a sentence of imprisonment without the option of a fine imposed upon him for the commission of some crime or offence not of a political character and who has not received a full pardon therefor.
- (h) The fact that a person is a member of a club holding a club liquor licence shall not in itself disqualify him from being a member of a licensing court.
- (2) Any person so disqualified who knowingly acts or sits as a member of a licensing court, shall on conviction be liable to a fine not exceeding one hundred and fifty pounds.

Appointment
of members.

13. Every person appointed by the Governor to be a member of a licensing court shall be appointed annually, or on the occurrence of any vacancy, and shall hold office until the thirty-first day of December in the year in which he is appointed, unless his office shall be vacated by death, resignation, or by his ceasing to reside in the licensing area.

When meet-
ings to be
held.

14. A meeting of the licensing court open to the public shall be held in each licensing area on the second Monday in the months of ~~June~~ and ~~December~~ in each year, at such place or places as the Governor may appoint, for the purpose of considering all applications for the granting, renewal, transfer or removal of any licence for or in respect of which notice in accordance with the provisions of this Ordinance has been given.

Quorum.

15. (1) In any licensing court constituted in accordance with the provisions of section 11 of this Ordinance three members shall form a quorum.

(2) If a quorum is not present on the day appointed as advertised, or at any adjournment thereof, the said meeting shall be adjourned from day to day until a quorum can be present to hold such meeting.

16. (1) The district commissioner of the district wherein a licensing court is appointed to be held shall preside at every meeting of the licensing court, but in his absence the members present may elect one of their number to preside.

The district
commissioner
to preside at
meeting.

(2) The decision of the majority of members present shall be the decision of the court; and the officer or person presiding shall, in the case of an equality of votes, have a casting as well as a deliberative vote.

17. It shall be lawful for a licensing court to adjourn any meeting from time to time as it may think fit. Provided that no such adjournment or adjournments shall extend beyond a period of one month after the date of the first meeting of the court.

Adjournment

18. The person presiding at any meeting of the licensing court shall, within seven days after such meeting or any adjournment thereof is concluded, cause to be forwarded to each district commissioner within the licensing area for which the court has been appointed a return signed by him specifying the names and places of residence of all persons to whom certificates have been granted by the court for the purpose of obtaining or renewing licences, and the nature of the licences authorized, granted or renewed in the respective districts, and shall, at the same time, forward to the Commissioner of Police a copy of such return and

Returns of
licences to be
forwarded to
district com-
missioner and
to Commis-
sioner of
Police.

- (a) a return of the number of the licences existing immediately before the sitting of the court;
- (b) a return of the number of licences authorized to be renewed;
- (c) a return of the number of licences transferred to other premises;
- (d) a return of the number of new licences authorized to be granted; and
- (e) a return of the number of licences refused.

19. (1) Any person interested in any premises about to be constructed or in course of construction for the purpose of being used for the sale of intoxicating liquors for consumption on the premises, may apply to the licensing court

Provisional
licences.

APPLICATIONS FOR LICENCES.

22. (1) Any person who desires to obtain a licence for the sale of liquor under this Ordinance (save and except where otherwise provided for) or the removal of any licence from the licensed premises to any other premises in the same district, or the transfer of a licence by the holder thereof to any other person, shall make application in writing to the district commissioner of the district wherein a licensing court is appointed to be held before the twenty-fifth day of ~~April~~ or the twenty-fifth day of ~~October~~, as the case may be, setting forth his full name and address, the full names of his partners (if any), the nature or description of the licence required to be obtained or transferred, as the case may be, the number or names (if any) of the house and the street or road where the business is intended to be or is carried on, or, in the case of the transfer of a licence, the name of the person to whom the same is desired to be transferred: Provided that where any application as aforesaid through inadvertence is not made in due time, the district commissioner may, if he thinks fit, accept such application for the consideration thereof by the licensing court at the next meeting or any adjournment thereof on payment of such sum, not exceeding one hundred and fifty shillings, as he may impose, and upon such terms as to notice as he may prescribe.

When application for licence to be made.

Every application for a licence shall bear a stamp of ten shillings affixed by the applicant and cancelled by the district commissioner.

For the purposes of this sub-section an application for a Railway Restaurant Car Liquor Licence shall be made to the District Commissioner, Nairobi, and for this purpose "the court" shall mean the court for the licensing area within which Nairobi is situated.

(2) In the case of an application for the renewal of a licence no notice need be given, but no such application shall be considered by the licensing court unless such application is made on the first day of the meeting of such court.

(3) Any person who desires to obtain a licence under the provisions of which the sale of liquor for consumption on the premises will be authorized shall, in addition to complying with the requirements of sub-section (1) of this section, at the same time submit a plan of the premises in respect of which the application is made:

for the provisional grant of a licence in respect of such premises; and the licensing court, if satisfied with the plans submitted to it of such premises and if satisfied that if such premises had been actually constructed in accordance with such plans it would on application have granted such a licence in respect thereof, may make a provisional grant.

(2) A provisional grant shall not be of any validity until it has been declared to be final by the district commissioner of the district wherein a licensing court is appointed to be held.

(3) Such declaration shall be made if such district commissioner is satisfied that the premises have been completed in accordance with such plans as aforesaid and that no objection can be made to the character of the holder of such provisional licence.

Power of Governor to rectify omissions and order special meetings of licensing court.

20. (1) If through any accident or omission anything required by this Ordinance to be done is omitted to be done or is not done within the time fixed, the Governor may order all such steps to be taken as may be necessary to rectify any such error or omission and may validate anything which may have been irregularly done in matter or form, so that the intent and purpose of this Ordinance may have effect. The Governor may, if he thinks fit, also authorize the holding of a special meeting of any licensing court.

(2) Any licence granted at any special meeting of the licensing court shall continue in force ~~until the date of its next ordinary meeting~~ *until it is granted.*

Evidence to be given on oath.

21. (1) When any licensing court deems it necessary to take evidence respecting any question to be determined by such court, such evidence shall be given on oath (which oath the person presiding is hereby authorized to administer) and shall be filed on record in the office of the district commissioner of the district wherein a licensing court is appointed to be held.

False evidence perjury.

(2) If any person upon any examination on oath before any licensing court wilfully and corruptly gives false evidence such person shall be deemed to be guilty of perjury within the meaning of section 97 of the Penal Code.

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(2) Any licence granted at any special meeting of the licensing court shall continue in force until the close of its next ordinary meeting, *unless it is granted*

Evidence to be given on oath.

21. (1) When any licensing court deems it necessary to take evidence respecting any question to be determined by such court, such evidence shall be given on oath (which oath the person presiding is hereby authorized to administer) and shall be filed on record in the offices of the district commissioner of the district wherein a licensing court is appointed to be held.

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No. 10 of 1930.

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(2) In the case of an application for the renewal of a licence no notice need be given, but no such application shall be considered by the licensing court unless such application is made on the first day of the meeting of such court.

(3) Any person who desires to obtain a licence under the provisions of which the sale of liquor for consumption on the premises will be authorized shall, in addition to complying with the requirements of sub-section (1) of this section, at the same time submit a plan of the premises in respect of which the application is made.

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(2) In the case of an application for the renewal of a licence no notice need be given, but no such application shall be considered by the licensing court unless such application is made on the first day of the meeting of such court.

(3) Any person who desires to obtain a licence under the provisions of which the sale of liquor for consumption on the premises will be authorized shall, in addition to complying with the requirements of sub-section (1) of this section, at the same time submit a plan of the premises in respect of which the application is made:

Provided that, if such premises have already been licensed and the application is made for a renewal or transfer of the licence, it shall not be obligatory on the applicant to submit such plan unless the licensing court may so order.

(4) In the case of an application for a Proprietary or Members' Club Licence the applicant shall, in addition to the other requirements of this section, furnish a statutory declaration to the effect—

- (a) that the club is managed by a committee of its members;
- (b) that such committee holds regular meetings of which proper minutes are kept;
- (c) that only members of the club (including bona fide honorary, temporary and reciprocity members) are permitted to pay for accommodation or refreshment supplied therein;
- (d) that 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;
- (e) that the election of such members is either by a committee, or by all members, of the club: provided that the rules of the club may disqualify from voting any member in arrears with any payment due to the club;
- (f) that no person resident within ten miles of the club house is eligible for honorary or temporary membership of the club for more than one unbroken period in any one year, save where—
 - (i) such eligibility is, in terms of the rules of the club, granted by reason of such person holding some public or religious office or being a bona fide candidate for membership; or
 - (ii) by resolution of the club committee such person is allowed the privileges of temporary membership by virtue of his engagement in any match or competition organized by the club committee:

Provided that in the case of a sports club a person paying a green or playing fee may be granted the privileges of temporary membership for the period covered by such fee.

- (g) that proper accounts are kept; and
- (h) that a register of ordinary members and of honorary members and reciprocity members is kept.

(5) (a) An application for a members' club licence in respect of the year 1935 by a members' club formed before and in existence on the thirty-first day of December, 1934, shall be made in accordance with the provisions of this section before the twenty-fifth day of April, 1935, and if the grant of a licence is approved by the licensing court such licence shall be issued with retrospective effect to the first day of January, 1935.

(b) Between the first day of January, 1935, and a date to be fixed by the Governor by notice in the Gazette (which date shall be as soon as possible after the sitting of the licensing court in June, 1935) a members' club formed before and in existence on the thirty-first day of December, 1934, shall be deemed to be in possession of a members' club licence.

23. (1) The district commissioner on receiving an application under section 23 of this Ordinance, shall cause to be posted in some conspicuous place at or in his office a notice containing the name of the applicant, the situation of the premises in respect of which the application is made, and the day on which and place where the licensing court will sit for hearing such application, and a copy of such notice shall be sent by post or otherwise to every member constituting such court, and to the Government Printer for publication in the Gazette.

(2) The district commissioner shall, as soon as possible after receiving such application, cause the name of such applicant as aforesaid to be sent to the Commissioner of Police and, where the application is in respect of premises situate within a municipality, to the town clerk of such municipality. It shall be the duty of the Commissioner of Police before the hearing of the application to report as fully as possible to the licensing court on all matters which would affect the decision of the licensing court in respect of such application as aforesaid.

(3) The notice mentioned in sub-section (1) of this section shall be posted and published at least thirty days before the sitting of the said court; Provided that no licence authorized to be granted by any such court shall be capable of being questioned on the grounds that any such notice was not duly posted, published or sent as aforesaid.

Members' club licence for 1935.

(6) Any issued to him who desires, existing licence description shall of a licence under of this Ordinance grant of new li

Provided application for his application taken to be an

The district commissioner to publish notice of application.

Death or
insolvency of
applicant.

24. If an applicant, after applying for the grant or renewal or removal of a licence, dies or files his petition in bankruptcy on or before the day fixed for the consideration of his application, the licensing court may, if it thinks fit, grant a certificate for such licence to the widow of any deceased applicant or to the executor, administrator, receiver, or trustee, as the case may be, of the estate of such applicant.

OBJECTIONS TO APPLICATION FOR LICENCES.

Who may
object to issue
of licences.

25. Any European member of the police force, acting on the general or special instructions of the Commissioner of Police, or any person residing in a district wherein a licence is applied for, may either individually or jointly with others object to the grant or renewal of a licence.

Objections,
how to be
made.

26. (1) All objections to the grant or renewal of a licence shall be made in writing to the district commissioner of the district wherein a licensing court is appointed to be held; and, where the objection is to the renewal of a licence, notice thereof stating the reason for such objection shall be given to the applicant personally or by means of a registered letter by the person or persons objecting at least ten days before the hearing of the application by the licensing court.

(2) A licensing court may hear an objector to the grant or renewal of a licence notwithstanding that such objector has not sent his objection to such district commissioner: Provided that in such case, the court shall, if the applicant so demands, adjourn the hearing of the application for at least ten days.

(3)(a) Every applicant for a new licence shall, save as herein provided, appear in person before the licensing court and shall prove to the satisfaction of such licensing court that there is a real necessity for the provision being made for the sale of intoxicating liquor in the particular locality in which the premises, in respect of which the application is made, are situate. Such applicant may be called upon by the court to answer on oath such questions as it may think necessary: Provided that it shall be lawful for the applicant and any applicant for removal, transfer or renewal of a licence to be represented at the hearing by an advocate.

(b) The licensing court may, however, require the attendance of the person applying for the renewal of a licence or the responsible manager of the premises in respect of which the licence is applied for, and may call upon such person or manager to answer on oath such questions as the court may think necessary and relevant to the inquiry at issue.

(4) Any objector to the grant or renewal of a licence may appear personally before the licensing court or may be represented by an advocate.

(5) The council or board of any municipality may, by writing under the hand of the chairman thereof, authorize any person to appear before the licensing court for the purpose of objecting on behalf of the inhabitants to the grant or renewal of a licence within the area of such municipality.

27. The licensing court may refuse to grant or to renew a licence, or may grant or renew a licence subject to such conditions, not repugnant to the provisions of this Ordinance, as it may deem fit, and such conditions shall be embodied in the licence: Court may refuse to grant or renew a licence.

Provided that a court shall only refuse to renew a licence when it is proved to its satisfaction that—

- (a) the holder thereof has been convicted of an offence against the provisions of this Ordinance; or
- (b) the holder thereof has had a sentence of imprisonment imposed upon him for the commission of some crime or offence (not of a political character) without the option of a fine and who has not received a full pardon therefor; or
- (c) the business is conducted in an improper manner; or
- (d) that the conditions upon which the licence (in respect of which the application for renewal has been made) was granted have not been satisfactorily fulfilled.

Provided further that the licensing court may only refuse to grant or to renew a Proprietary Club Liquor Licence or a Members' Club Liquor Licence on the following grounds—

- (a) that the proprietor, manager or secretary of the club has been convicted of an offence against this Ordinance; or
- (b) that the rules of the club do not conform to the requirements specified in sub-section (4) of section 23 of this Ordinance; or
- (c) that the rules specified in sub-section (4) of section 23 of this Ordinance are habitually contravened by the club or any member thereof.

Provided that a holder of a licence the it is proved to the sa

(e) that the premises holder is carried repair or do not requirements of the that the owner of the licence refuse guarantees that carried out withi

Death or
insolvency of
applicant.

24. If an applicant, after applying for the grant or renewal or removal of a licence, dies or files his petition in bankruptcy on or before the day fixed for the consideration of his application, the licensing court may, if it thinks fit, grant a certificate for such licence to the widow of any deceased applicant or to the executor, administrator, receiver, or trustee, as the case may be, of the estate of such applicant.

OBJECTIONS TO APPLICATION FOR LICENCES.

Who may
object to issue
of licences.

25. Any European member of the police force, acting on the general or special instructions of the Commissioner of Police, or any person residing in a district wherein a licence is applied for, may either individually or jointly with others object to the grant or renewal of a licence.

Objections,
how to be
made.

26. (1) All objections to the grant or renewal of a licence shall be made in writing to the district commissioner of the district wherein a licensing court is appointed to be held; and, where the objection is to the renewal of a licence, notice thereof stating the reason for such objection shall be given to the applicant personally or by means of a registered letter by the person or persons objecting at least ten days before the hearing of the application by the licensing court.

(2) A licensing court may hear an objector to the grant or renewal of a licence notwithstanding that such objector has not sent his objection to such district commissioner: Provided that in such case, the court shall, if the applicant so demands, adjourn the hearing of the application for at least ten days.

(3)-(4) Every applicant for a new licence shall, save as herein provided, appear in person before the licensing court and shall prove to the satisfaction of such licensing court that there is a real necessity for the provision being made for the sale of intoxicating liquor in the particular locality in which the premises, in respect of which the application is made, are situate. Such applicant may be called upon by the court to answer on oath such questions as it may think necessary: Provided that it shall be lawful for the applicant and any applicant for removal, transfer or renewal of a licence to be represented at the hearing by an advocate.

(5) The licensing court may, however, require the attendance of the person applying for the renewal of a licence or the responsible manager of the premises in respect of which the licence is applied for, and may call upon such person or manager to answer on oath such questions as the court may think necessary and relevant to the inquiry at issue.

(3) Any objector to the grant or renewal of a licence may appear personally before the licensing court or may be represented by an advocate.

(4) The council or board of any municipality may, by writing under the hand of the chairman thereof, authorize any person to appear before the licensing court for the purpose of objecting on behalf of the inhabitants to the grant or renewal of a licence within the area of such municipality.

27. The licensing court may refuse to grant or to renew a licence, or may grant or renew a licence subject to such conditions, not repugnant to the provisions of this Ordinance, as it may deem fit, and such conditions shall be embodied in the licence:

Court may
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Provided that a court shall only refuse to renew a licence when it is proved to its satisfaction that—

- (a) the holder thereof has been convicted of an offence against the provisions of this Ordinance; or
- (b) the holder thereof has had a sentence of imprisonment imposed upon him for the commission of some crime or offence (not of a political character) without the option of a fine and who has not received a full pardon therefor; or
- (c) the business is conducted in an improper manner; or
- (d) that the conditions upon which the licence (in respect of which the application for renewal has been made) was granted have not been satisfactorily fulfilled:

Provided further that the licensing court may only refuse to grant or to renew a Proprietary Club Liquor Licence or a Members' Club Liquor Licence on the following grounds—

- (a) that the proprietor, manager or secretary of the club has been convicted of an offence against this Ordinance; or
- (b) that the rules of the club do not conform to the requirements specified in sub-section (4) of section 22 of this Ordinance; or
- (c) that the rules specified in sub-section (4) of section 22 of this Ordinance are habitually contravened by the club or any member thereof.

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it is proved to the sati

(e) that the premises
holder is carried &
repair or do not c
quirements of the
that the owner of
the licence refuses
guarantees that
carried out within

And when there is no objection.

28. (1) The licensing court may of its own motion take notice of any matter or thing which, in the opinion of the members thereof, would constitute an objection to the grant or to the renewal, transfer or removal of a licence, notwithstanding that no objection has been made thereto by any person.

(2) In any case when the application is for the renewal, transfer or removal of a licence, the court shall inform the applicant of the objection, and shall if the applicant so requests adjourn the further consideration of the application for any period of not less than seven days, to enable the person affected by such objection to have the opportunity of replying thereto.

(3) The court shall after such adjournment give notice in writing, signed by the president, to the person affected of the cause of objection and of the day on which the adjourned application will be considered.

Extension of existing licences when renewal disallowed.

29. If the renewal of a licence held by any person is refused by the licensing court, and if such person has not during the preceding twelve months been convicted of any offence against this or any other law relating to the sale of intoxicating liquors, he shall, upon payment of a proportionate part of the cost of a licence such as that held by him, be entitled to obtain a licence for such period, not being less than one month, as the licensing court shall determine for the purpose of disposing of the liquor then on the premises. Such period shall commence from the day after the last day of the sitting of the court by which the renewal of his licence had been refused or from the termination of his existing licence, whichever day is the later.

CASES IN WHICH LICENCES CANNOT BE GRANTED OR TRANSFERRED.

When grant shall be disallowed.

30. It shall not be competent for the licensing court to grant a new licence when any of the following objections are proved to its satisfaction:—

(1) That the applicant is of bad fame or bad character or of drunken habits, or has previously forfeited a licence or has been convicted at any time previous to his application of selling liquor without a licence.

(2) That the number of premises already licensed is sufficient for the requirements of the neighbourhood.

(3) That the premises in respect of which the application is made are out of repair or are not kept in a clean and wholesome condition.

31. It shall not be competent for the licensing court to grant a new licence or the transfer of a licence to any person—

Persons to whom a licence shall not be granted.

(1) who, in this Colony or elsewhere, has had a sentence of imprisonment imposed upon him for the commission of some crime or offence (not of a political character) without the option of a fine and who has not received a full pardon therefor;

(2) who, in the case of a retail licence, is not residing in this Colony;

(3) who is under the age of twenty-one years;

(4) who is a native, a Swahili, a Somali, a Baluchi born in Africa, or Malagasy, or a Comoro Islander.

The premises in respect of which a licence is issued or transferred to any person disqualified under this section shall be closed for the sale of liquor by order of the district commissioner of the district in which a licensing court is appointed to be held for the licensing area in which the premises are situate, until such time as the licence is transferred.

TRANSFER AND REMOVAL OF LICENCE.

32. The holder of a licence (other than a club licence) who, during the currency of the licence, transfers or assigns the same to another person, or who, during the currency of the licence, transfers or assigns the premises in which the licence is situate, for a temporary transfer or for a temporary change of such business or to the premises, as the case may be; and may, if he thinks fit and upon paying the sum of thirty shillings, grant a licence accordingly.

Provided that if the Court refuses or declines to grant an application for such licence of a different class, his application shall at his request be taken to be an application for a renewal of his licence.

18. Section 45 of the Principal Ordinance amended by substituting the words "an ordinary temporary or reciprocal" for the letter "a" in the thereof.

19. Section 46 of the Principal Ordinance amended by substituting the words "preceding" for the word "year" which occurs in the first section (4) thereof.

20. The Principal Ordinance is hereby amended by substituting the words "the district commissioner of the district in which a licensing court is appointed to be held for the licensing area in which the premises to which it is proposed to remove the licence are

And when there is no objection.

28. (1) The licensing court may of its own motion take notice of any matter or thing which, in the opinion of the members thereof, would constitute an objection to the grant or to the renewal, transfer or removal of a licence, notwithstanding that no objection has been made thereto by any person.

(2) In any case when the application is for the renewal, transfer or removal of a licence, the court shall inform the applicant of the objection, and shall if the applicant so requests adjourn the further consideration of the application for any period of not less than seven days, to enable the person affected by such objection to have the opportunity of replying thereto.

(3) The court shall after such adjournment give notice in writing, signed by the president, to the person affected of the cause of objection and of the day on which the adjourned application will be considered.

Extension of existing licences when renewal disallowed.

29. If the renewal of a licence held by any person is refused by the licensing court, and if such person has not during the preceding twelve months been convicted of any offence against this or any other law relating to the sale of intoxicating liquors, he shall, upon payment of a proportionate part of the cost of a licence such as that held by him, be entitled to obtain a licence for such period, not being less than one month, as the licensing court shall determine for the purpose of disposing of the liquor then on the premises. Such period shall commence from the day after the last day of the sitting of the court by which the renewal of his licence had been refused, or from the termination of his existing licence, whichever day is the later.

CASES IN WHICH LICENCES CANNOT BE GRANTED OR TRANSFERRED.

When grant shall be disallowed.

30. It shall not be competent for the licensing court to grant a new licence when any of the following objections are proved to its satisfaction:—

- (1) That the applicant is of bad fame or bad character or of drunken habits, or has previously forfeited a licence or has been convicted at any time previous to his application of selling liquor without a licence.
- (2) That the number of premises already licensed is sufficient for the requirements of the neighbourhood.

(3) That the premises in respect of which the application is made are out of repair or are not kept in a clean and wholesome condition.

31. It shall not be competent for the licensing court to grant a new licence or the transfer of a licence to any person—

Persons to whom a licence shall not be granted.

- (1) who, in this Colony or elsewhere, has had a sentence of imprisonment imposed upon him for the commission of some crime or offence (not of a political character) without the option of a fine and who has not received a full pardon therefor;
- (2) who, in the case of a retail licence, is not residing in this Colony;
- (3) who is under the age of twenty-one years;
- (4) who is a native, a Swahili, a Somali, a Baluchi born in Africa, or Malagasy, or a Comoro Islander.

The premises in respect of which a licence is issued or transferred to any person disqualified under this section shall be closed for the sale of liquor by order of the district commissioner of the district in which a licensing court is appointed to be held for the licensing area in which the premises are situate, until such time as the licence is transferred.

TRANSFER AND REMOVAL OF LICENCE.

32. The holder of a licence (other than a club licence) who, during the currency of the licence, transfers the premises or the house or premises in which the licence was granted, may make an application to the commissioner of the district in which a licence is held for the licensing area in which the premises are situate, for a temporary transfer of such business or to the premises, as the case may be; and may, if he thinks fit and upon payment of the sum of thirty shillings, grant a licence accordingly.

33. The holder of any licence who transfers the premises in which the licence was granted to the same licensing area, may make an application to the commissioner of the district in which a licensing court is appointed to be held for the licensing area in which the premises to which it is proposed to remove the licence are

18. Section 45 of the Principal Ordinance amended by substituting the words "an ordinance (temporary or permanent)" for the letter "a" in it thereof.

19. Section 46 of the Principal Ordinance amended by substituting the words "preceeding" for the word "year" which occurs in the first section (4) thereof.

20. The Principal Ordinance is hereby amended

sitate for permission to remove such licence; and such district commissioner, if satisfied that to wait for the next meeting of the licensing court would subject such holder to serious loss or inconvenience and if he thinks fit, after hearing any objections to such removal, may, upon payment by the applicant of the sum of thirty shillings, authorize such removal after not less than thirty days' notice of such application has been affixed in a conspicuous place on the outside of the premises to which it is proposed to remove the licence, and at such district commissioner's office.

Fresh application to be made.

34. Any person to whom a licence may be temporarily transferred and any person who may be authorized to remove his licence to other premises and any person to whom a provisional licence has been granted shall, at the next meeting of the licensing court, apply for a licence as if he were not a licensed person.

Where transfer or removal not ratified.

35. A licensing court shall not be bound to ratify a temporary transfer or removal sanctioned by a district commissioner; and, should it refuse to do so at its next meeting after considering the application made in respect thereof, such licence shall, as to the person to whom the same was originally granted or in respect of the premises originally licensed, be considered to be in the same position as if no such transfer or removal has taken place; and an application for the renewal of the licence by the transferee shall at the request of the transferor be deemed and taken to be an application by him for such renewal.

Application is made in accordance with the provisions of a licensing court, and a temporary transfer of the licence to the person to whom the licence is transferred.

Death of holder of licence.

36. In the event of the death of the holder of any licence, the widow (if any) or the executor or administrator of the deceased person, or any person approved by a district commissioner, and in case of bankruptcy the trustee or receiver of the estate of such bankrupt, may carry on the business until the next meeting of the Licensing Court either personally or by an agent, approved of in writing by a district commissioner, without any formal transfer of the licence.

Power and duties of representative of deceased.

37. Any person to whom a licence may be temporarily transferred, or who may be carrying on or conducting the business of licensed premises as the widow, or executor or administrator of the estate of any deceased person or as the person approved by such district commissioner or as the trustee

or receiver of any estate of any bankrupt or as any approved agent of any such widow, executor, administrator, trustee or other person shall possess all the rights and be subject and liable to all the duties, obligations and penalties of the original holder of the licence.

OFFENCES.

38. (1) No person who is not licensed shall have any words or letters on his premises importing that he is licensed, and no licensed person shall have any words or letters importing that he is licensed in any way other than that in which he is duly licensed.

(2) Any person guilty of a contravention of this section shall be liable to a fine of seventy-five pounds, and in default of payment to imprisonment for a term not exceeding three months.

39. (1) No person shall sell, barter, give or otherwise supply to any native, Swahili, Somali, Baluchi born in Africa, Malagasy, or Comoro Islander, any intoxicating liquor: Provided that liquor may be supplied to a native, a Swahili, a Somali, a Baluchi born in Africa, a Malagasy, or a Comoro Islander, for medicinal purposes (save as may be prescribed by Rules made under paragraph (c) of section 65 of the Ordinance) or sacramental use, and in such case the burden of proof shall be upon the person who supplied the liquor to show that it was required for such purpose.

Native not to be supplied.

(2) Any person contravening the provisions of this section shall on conviction be liable—

- (a) For a first offence to a fine not exceeding one hundred and fifty pounds, and in default of payment to imprisonment for a term not exceeding six months.
- (b) For a second offence to a fine of not less than seventy-five pounds, but not exceeding two hundred pounds, and in default of payment to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment.
- (c) For a third or any subsequent offence to imprisonment for a period of not less than two years and not exceeding three years, and in addition to such imprisonment at the discretion of the court to a fine not exceeding twelve hundred pounds, and in default of payment to imprisonment for a further period not exceeding two years.

(3) In any summons or charge for an offence against the provisions of this section; it shall not be necessary to set out the names of the natives, Swahili, Somalis, ~~Beluchi born in Africa~~, Malagasies, or Comoro Islanders, to whom intoxicating liquor is alleged to have been sold, bartered, given or otherwise supplied; but it shall be sufficient to allege that such sale, barter, gift or supply was effected to natives, Swahili, Somalis, ~~Beluchi born in Africa~~, Malagasies, or Comoro Islanders, as the case may be: Provided that nothing in this sub-section contained shall render it unnecessary to set out accurately in such charge all other material particulars of the charge.

(4) Any holder of a licence who is convicted of contravening the provisions of sub-section (1) of this section shall, in addition to any other penalty, forfeit his licence, and in such case no licence shall at any time thereafter be granted to such person unless and until he shall have received a free pardon for such conviction.

40. (1) No holder of any liquor licence shall employ a person under the age of eighteen or a person convicted of any offence under this Ordinance to sell intoxicating liquor.

(2) Any person knowingly contravening the provisions of this section shall be liable to a fine not exceeding seventy-five pounds, and in default of payment to imprisonment for a period not exceeding three months.

41. (1) No habitual drunkard or native, Swahili, Somali, ~~Beluchi born in Africa~~, Malagasy, or Comoro Islander shall obtain by purchase or barter or be in possession of any intoxicating liquor.

(2) Any person contravening the provisions of this section shall on conviction be liable to imprisonment for a period not exceeding six months.

42. If, in any proceedings under sections 39, 40 or 41 of this Ordinance, there shall be any question as to whether any person is or is not a native, or a Swahili, or a Somali, or a ~~Beluchi born in Africa~~, or a Malagasy, or a Comoro Islander, the onus shall be upon the accused to show that he is not a native, or a Swahili, or a Somali, or a ~~Beluchi born in Africa~~, or a Malagasy, or a Comoro Islander, as the case may be.

Persons prohibited from selling liquor.

Habitual drunkard or native, not to obtain liquor.

Penalty.

Onus of proof as to whether a person is a native or not.

43. The holder of any licence who is convicted of any of the following acts or offences shall be liable in respect of each act or offence to a fine not exceeding fifteen pounds, and in default of payment to imprisonment for a period not exceeding one month:—

Offences by licence holder.

(1) Permitting drunkenness or any riotous or quarrelsome conduct to take place upon his premises.

(2) Selling liquor to any person already in a state of intoxication, or by any means, encouraging or inciting any person to drink liquor.

(3) Knowingly selling liquor to any police officer of or below the rank of assistant inspector during any time appointed for such police officer to be on duty, unless such police officer produces the written permission of his superior officer, or knowingly harbouring or suffering to remain on his premises any such police officer during such time as aforesaid except for the purpose of keeping or restoring order or in the execution of his duty.

(4) Permitting his premises to be used as a brothel or the habitual resort or place of meeting of reputed prostitutes.

(5) Keeping his licensed premises open for the sale of liquor or selling or exposing any liquor for sale during any time when he is not authorized by his licence to sell; or allowing any liquors purchased before the hour of closing to be consumed on such premises after such closing hours.

In the event of a second or subsequent conviction, every such holder shall be liable to a fine not exceeding thirty pounds, and in default of payment to imprisonment for a period not exceeding two months.

Provided that if the holder of a licence to sell premises, between the minutes after such hour and for consumption at such liquor and such mean hour of closing.

44. Any person who, contrary to the provisions of this Ordinance, sells or deals in or disposes of any intoxicating liquor without a licence, or sells or offers or exposes for sale any such liquor at any place where he is not authorized by his licence so to sell, or who sells or deals in or disposes of any intoxicating liquor in any manner other than is provided for in the conditions of his licence shall on conviction be liable to the penalties provided in sub-section (2) of section 39 of this Ordinance, and all liquor found on the premises may be forfeited.

Trading without a licence.

Club licence;
absent of.

45. Any holder of a Club Liquor Licence who sells or allows to be sold liquor to any person not being a member of such club, shall be liable for each offence to a fine not exceeding one hundred and fifty pounds, and in default of payment to imprisonment for a period not exceeding six months.

Offences by
retail licence
holders re-
garding licence
holder liable
to forfeiture
and penalties.

46. The holder of any retail liquor licence shall be liable to forfeit such licence in addition to any other penalty by this Ordinance provided:—

- (1) If he permits any other person to manage, superintend or conduct the business of the licensed premises during his absence for a longer period than one month without the consent in writing of the district commissioner of the district in which the licensing court is appointed to be held for the licensing area in which the premises are situate.

Any person who at any time is lawfully managing, superintending or conducting the business of the holder of any licence shall be subject and liable to the same duties, obligations and penalties as such holder. Provided that nothing herein contained shall be taken to relieve the holder of any duties, obligations or penalties to which he may by law be subject or liable.

- (2) If he, whether he is present in such premises or not, permits any unlicensed person to be in effect the owner or part owner of or interested in the business of the licensed premises except with the consent of such district commissioner.

- (3) If he is convicted of any offence under this Ordinance and a previous conviction within the preceding twelve months of the same or any other offence under this Ordinance or three previous convictions within the preceding five years is or are proved.

- (4) If he is twice convicted within the year of selling, offering or keeping for sale any adulterated liquor.

47. (1) In any proceeding relating to any offence under this Ordinance it shall not be necessary to show that any money actually passed or that any liquor was actually consumed if the court hearing the case is satisfied that a transaction in the nature of a sale actually took place or that any consumption was about to take place.

Evidence of
sale of liquor.

(3) (a) Proof of consumption or intended consumption of liquor on licensed premises by some person other than the occupier or member of his family or servant in such premises shall be evidence that the liquor was sold by or on behalf of the holder of such licence to the person consuming or about to consume such liquor.

(b) If any vendor of non-intoxicating beverages not being duly licensed shall supply intoxicating liquor to mix or be taken with such beverage, he shall be deemed to have sold such intoxicating liquor.

48. In any proceeding against any person for selling or allowing to be sold any liquor without a licence such person shall be deemed to be unlicensed, unless he produces his licence or gives other satisfactory proof of his being licensed. The fact of any person not holding a licence having any sign-board or notice importing that he is licensed upon or near his premises or having a house or premises fitted with a bar or other place containing bottles, casks, or vessels so displayed as to induce a reasonable belief that liquor is sold or served therein or having liquor concealed or more liquor than is reasonably required for the person residing on such premises shall be deemed to be prima facie evidence of the unlawful sale of liquor by such person.

Onus of proof.

49. If any person, other than the licence holder, a member of his family, his agent or servant, or a person lodging in the licensed premises, is found in any bar on such premises during the hours in which the sale or disposal of liquor to the public is prohibited it shall be taken to be prima facie evidence of a sale of liquor during such hours, and the licence holder on whose premises any such person is found during such hours shall be liable to a fine not exceeding fifteen pounds or in default of payment to imprisonment for a period not exceeding one month; Provided that nothing in this section contained shall apply in the case of persons passing through any bar in any licensed premises for the sole purpose of obtaining access to any other part of such premises.

Persons on
premises of
licence
holder during
prohibited
hours.

50. Any person convicted of contravening any of the provisions of this Ordinance for or in respect of which no penalty is specially provided, shall be liable to a fine not exceeding thirty pounds, and in default of payment to imprisonment for any period not exceeding three months, and when a penalty has been provided for any offence without any period

Offence for
which no
penalty
provided.

of imprisonment in default of payment thereof, then the person convicted of such offence shall be liable:—

If the penalty does not exceed fifteen pounds, to imprisonment for a period not exceeding two months.

If the penalty exceeds fifteen pounds and does not exceed fifty pounds, to imprisonment for a period not exceeding four months.

If the penalty exceeds fifty pounds, to imprisonment for a term not exceeding six months.

Convictions against holder to be endorsed on licence.

51. (1) Every conviction against a licence-holder shall be endorsed by the magistrate on the licence of the convicted person and every application to the licensing court for a renewal of the licence shall, if required by the licensing court, be accompanied by the licence.

(2) Any licensed person convicted of an offence under this Ordinance shall, on demand being made by the court convicting him, produce his licence. Any such person refusing so to produce his licence shall be liable to a fine not exceeding fifteen pounds.

Notice of conviction to be served on the owner of premises.

52. (1) When any tenant of any licensed premises is convicted of an offence against this Ordinance it shall be the duty of the magistrate convicting such tenant to serve a notice of such conviction on the owner of the premises.

(2) Where any order of a court declaring any licensed premises to be disqualified from receiving a licence for any period has been made, the court shall, where the owner is not the occupier, cause such order to be served on the owner of such premises, with the addition of a statement that the court will sit at a time and place therein specified at which the owner may appear and appeal against such order on all or any of the following grounds but on no other grounds—

(a) that notice of a prior offence, which on repetition renders the premises liable to be disqualified from receiving a licence for any period, was not served on the owner as required by this section;

(b) that the tenant by whom the offence was committed held his tenancy under a contract and that the owner could not legally have evicted the tenant in the interval between the commission of the offence in respect of which the disqualifying order was made and the receipt by him of the notice of the immediate preceding offence which on repetition renders

the premises liable to be disqualified from receiving a licence for any period; or

(c) that the offence in respect of which the disqualifying order was made occurred so soon after the receipt of such last-mentioned notice, that the owner, notwithstanding that he had legal power to evict the tenant, could not with reasonable diligence have exercised that power in the interval which occurred between the said notice and the second offence.

(3) If the owner appears at the time and place specified, or at the place to which the court may be adjourned for the purpose, and satisfies the court that he is entitled to have the order cancelled on any of the grounds aforesaid, the court shall thereupon direct such order to be cancelled, and the same shall be void.

53. (1) Any licensed person may refuse to admit to and may turn out of the premises in respect of which his licence is granted any person who is drunken, violent, quarrelsome, or disorderly, or whose presence on his premises would subject him to a fine or penalty under this Ordinance.

Power to expel drunkards from licensed premises.

(2) Any such person who, upon being requested in pursuance of this section by such licensed person or his agent or servant or any police officer to quit such premises, refuses or fails so to do, shall be liable to a fine not exceeding seven pounds ten shillings.

(3) All police officers are required on the demand of such licensed person, agent or servant, to expel or assist in expelling every such person from such premises and may use such force as may be required for the purpose.

54. Any person, who knowingly supplies liquor to a person under the apparent age of eighteen years, except for medicinal purposes or sacramental use, or to a habitual drunkard, shall be liable to a fine not exceeding ten pounds, if he is proved to be guilty of such offence by substituting the word "premises" which occurs in the sixth line of sub-section (3) thereof;

Penalty for supplying liquor to habitual drunkard.

(b) by substituting a colon for the full stop which occurs at the end of sub-clause (5) thereof; and

POWERS AND

Police Officers shall, after each colon the following

55. (1) It shall be the duty of the officer in charge of police in every district to report to the district commissioner of the district, in which a licensing court is appointed to be held for any licensing area, any licensed premises which are

Report by Chief Officer of Police.

out of repair, or have not reasonable accommodation or proper or sufficient sanitary or drainage requirements, and any case in which the holder of a licence is of drunken habits or keeps a disorderly house.

(2) Any European police officer, acting on the instructions of his superior officer, may enter any licensed premises, other than a proprietary or a members' club, during the hours such premises are open and inspect and examine every room and part thereof for the purpose of the report in the last subsection mentioned.

(3) Any European police officer may enter any licensed premises, other than a proprietary or members' club, at any time when he has reasonable grounds for believing that liquor is being sold on such premises contrary to the provisions of this Ordinance.

(4) In the case of a proprietary or members' club, the powers of entry and inspection conferred by sub-sections (2) and (3) of this section and by section 56 of this Ordinance may be exercised by a European police officer acting on the written instructions of the Commissioner of Police.

(5) Any person resisting or obstructing a police officer in the execution of his duty as aforesaid, shall be liable on conviction to a fine not exceeding seventy-five pounds and in default of payment to imprisonment for a period not exceeding three months.

56. (1) A licence authorizing the sale of intoxicating liquor shall be displayed in a prominent place on the premises where such liquor is sold; and, subject to the provisions of subsection (4) of section 55, it shall be lawful for any magistrate or European police officer to enter in or upon such premises to inspect such licence.

(2) Any holder of a licence failing so to display such licence or refusing permission or failing to allow such magistrate or European police officer to inspect such licence shall be liable to a fine not exceeding fifteen pounds and in default of payment to imprisonment for a period not exceeding one month, or to such imprisonment without the option of a fine.

57. (1) Any person found by a police officer to be drunk and incapable, or drunk and disorderly in or near a street, road, or other public thoroughfare, or in a public-house, shop, warehouse, hotel, or any other public place, may be arrested without warrant and brought without any unnecessary delay before a magistrate.

Arrest of
intoxicated
persons.

(2) Any such person shall on conviction be liable to a fine not exceeding ninety shillings and in default of payment to imprisonment for a period not exceeding seven days, and for a second or subsequent conviction he shall be liable to a fine not exceeding fifteen pounds and in default of imprisonment for a period not exceeding one month.

58. (1) It shall be lawful for any police officer, having a special written authority from a magistrate, at all reasonable hours to enter any unlicensed premises or any wagon, cart, or other vehicle in which he has reason to suspect that any intoxicating liquor is sold or kept for sale, and search such premises, wagon, cart or other vehicle.

(2) Any liquor found in the course of such search may be seized and removed, and may be declared forfeited by any court on conviction of the owner or person found in possession thereof. Provided that, when there is any danger that the delay occasioned by obtaining such written authority will defeat the objects of this section, any police officer may exercise the powers hereby conferred without any written authority, but he shall as soon as possible report the action he has taken to a magistrate.

59. (1) Any police officer may demand the name and address of any person found on premises in which he seizes or from which he removes any liquor under the provisions of this Ordinance, and if such person refuses to comply with such demand or gives a name or address which the police officer demanding the same has reasonable grounds to believe to be false, he may arrest such person without warrant and take him as soon as possible before a magistrate.

(2) Any such person who refuses to give his name or address when so demanded as aforesaid or gives a false name or address shall on conviction be liable to a fine not exceeding seven pounds ten shillings.

60. Any police officer may arrest without warrant any person whom he has reasonable grounds to believe has committed an offence under sections 39, 41 or 44 of this Ordinance, and shall take such person before a magistrate as soon as possible.

61. The conviction of a habitual drunkard shall be forthwith reported by the convicting magistrate to the Commissioner of Police, who shall inform all licensed persons of such conviction.

Inspection of
unlicensed
premises by
police.

Police may
demand the
name and
address of
person on
premises.

Police may
arrest without
warrant in
certain cases.

Conviction of
habitual
drunkard to
be reported to
Commissioner
of Police for
information of
licensed
persons.

Debts not recoverable in respect of sale of liquor for consumption on premises.

62. No action shall be maintainable to recover any debt alleged to be due in respect of the sale or supply of any intoxicating liquor which was delivered for consumption on the premises where sold or supplied unless the person to whom the same was sold or supplied was at the time of such sale or supply a lodger on such premises.

MISCELLANEOUS.

63. (1) Every licence granted on a certificate from the licensing court may be issued for six or twelve months, but shall expire on the thirty-first day of December of the year in which it was issued: Provided that in every case in which an application for the renewal of a licence is made, such licence shall continue in force until the conclusion of the meeting of the licensing court at which such application is made.

(2) Where the fee payable for a licence for twelve months is thirty pounds or over such fee may be paid in two equal instalments:

Provided that if the second instalment is not paid by the thirtieth day of June in the year in which the licence was issued such licence shall be deemed to have lapsed with effect from that date.

64. Any master or other person employing workmen, servants, or labourers, who pays or causes any payment to be made to any such workman, servant or labourer in the bar of any premises licensed for the sale of liquors, shall for every such offence be liable to a fine not exceeding fifteen pounds: Provided that nothing herein contained shall extend to any holder of any liquor licences who pays upon his own licensed premises the workmen, servants, or labourers employed by him in connection with his licensed premises.

65. The Governor may make Rules—

- regulating the proceedings and meetings of licensing courts;
- prescribing the forms of licences, notices or documents for use under the provisions of this Ordinance;
- prohibiting, restricting, or controlling, the sale of intoxicating medicines; and
- generally for the better carrying out of the provisions of this Ordinance.

66. The costs incurred by the members of any licensing court in connection with legal proceedings instituted against them in their official capacity, shall, unless the court before

Prohibition of payment of wages on licensed premises.

Power to make Rules.

Costs incurred in legal proceedings.

which the proceedings are taken order the costs to be borne by the opposite party or by the said members personally, be paid to them by the Treasurer out of the revenues of the Colony.

67. The Liquor Ordinance (Chapter 71 of the Revised Edition) as amended by the Liquor (Amendment) Ordinance, 1930, and the Liquor (Amendment) Ordinance, 1931, is hereby repealed.

Repeal.
No. 62 of 1930.
No. 33 of 1931.

SCHEDULE.

(1) The following fees are payable for or in respect of Liquor Licences granted, renewed or transferred:—

	For twelve months	For six months
(a) Wholesale Liquor Licence	£ 25 0	£ 14 0
(b) Hotel Liquor Licence	20 0	11 10
(c) Restaurant or Café Liquor Licence	30 0	16 10
(d) Malt Liquor Licence	7 10	4 10
(e) Wine Merchants' or Grocers' Liquor Licence	30 0	16 10
(f) General Retail Liquor Licence—		
(i) In respect of premises situate in or within three miles of the boundaries of Nairobi Municipality or Mombasa Municipality	60 0	31 10
(ii) In respect of premises situate in or within three miles of the boundaries of Nakuru Municipality, Eldoret Municipality, Kitale Township or Kisumu Township, or such other townships as the Governor may by proclamation declare	45 0	23 10
(iii) In respect of premises situate elsewhere	35 0	18 10
(g) Proprietary Club Liquor Licence	45 0	24 0
(h) Members' Club Liquor Licence—		
(i) In respect of clubs situate in or within three miles of the boundaries of Nairobi Municipality or Mombasa Municipality	3 0	—
(ii) In respect of clubs situate elsewhere	1 10	—
(i) Railway Station Liquor Licence	15 0	9 0
(j) Theatre Liquor Licence	30 0	16 10
(k) Brewers' Liquor Licence	30 0	16 10
(l) Steamship Liquor Licence	10 0	6 00
(m) Canteen Liquor Licence	7 10	4 10
(n) Railway Restaurant Car Liquor Licence	15 0	9 0
(o) Temporary Liquor Licence	1 10	day
(p) Temporary Extension Licence—		
(i) In respect of premises situate in or within three miles of the boundaries of Nairobi Municipality or Mombasa Municipality	Sh. 15 per hour	
(ii) In respect of premises situate elsewhere	Sh. 10 per hour	
(q) Camp Canteen Licence	Sh. 10 each	

Provided that the municipality or miles of such boundaries of the licensing fee as, having regard to the circumstances, he may deem to be

Debts not recoverable in respect of sale of liquor for consumption on premises.

62. No action shall be maintainable to recover any debt alleged to be due in respect of the sale or supply of any intoxicating liquor which was delivered for consumption on the premises where sold or supplied unless the person to whom the same was sold or supplied was at the time of such sale or supply a lodger on such premises.

MISCELLANEOUS.

Licences to expire on the thirty-first day of December.

63. (1) Every licence granted on a certificate from the licensing court may be issued for six or twelve months, but shall expire on the thirty-first day of December of the year in which it was issued: Provided that in every case in which an application for the renewal of a licence is made, such licence shall continue in force until the conclusion of the meeting of the licensing court at which such application is made.

(2) Where the fee payable for a licence for twelve months is thirty pounds or over such fee may be paid in two equal instalments:

Provided that if the second instalment is not paid by the thirtieth day of June in the year in which the licence was issued such licence shall be deemed to have lapsed with effect from that date.

Prohibition of payment of wages on licensed premises.

64. Any master or other person employing workmen, servants, or labourers, who pays or causes any payment to be made to any such workman, servant or labourer in the bar of any premises licensed for the sale of liquors, shall for every such offence be liable to a fine not exceeding fifteen pounds: Provided that nothing herein contained shall extend to any holder of any liquor licence who pays upon his own licensed premises the workmen, servants, or labourers employed by him in connection with his licensed premises.

65. The Governor may make Rules—

- regulating the proceedings and meetings of licensing courts;
- prescribing the forms of licences, notices or documents for use under the provisions of this Ordinance;
- prohibiting, restricting, or controlling, the sale of intoxicating medicines; and
- generally for the better carrying out of the provisions of this Ordinance.

Power to make Rules.

Costs incurred in legal proceedings.

66. The costs incurred by the members of any licensing court in connection with legal proceedings instituted against them in their official capacity, shall, unless the court before

which the proceedings are taken order the costs to be borne by the opposite party or by the said members personally, to be paid to them by the Treasurer out of the revenues of the Colony.

67. The Liquor Ordinance (Chapter 71 of the Revised Edition) as amended by the Liquor (Amendment) Ordinance, 1930, and the Liquor (Amendment) Ordinance, 1931, is hereby repealed.

Repeal.
No. 53 of 1930.
No. 38 of 1931.

SCHEDULE.

(1) The following fees are payable for or in respect of Liquor Licences granted, renewed or transferred:—

	For twelve months	For six months
(a) Wholesale Liquor Licence	£ 25 0	£ 14 0
(b) Hotel Liquor Licence	20 0	11 10
(c) Restaurant or Café Liquor Licence	30 0	16 10
(d) Malt Liquor Licence	7 10	4 10
(e) Wine Merchants' or Grocers' Liquor Licence	30 0	16 10
(f) General Retail Liquor Licence—		
(i) In respect of premises situate in or within three miles of the boundaries of Nairobi Municipality or Mombasa Municipality	60 0	31 10
(ii) In respect of premises situate in or within three miles of the boundaries of Nakuru Municipality, Eldoret Municipality, Kitale Township or Kisumu Township, or such other townships as the Governor may by proclamation declare	45 0	23 10
(iii) In respect of premises situate elsewhere	35 0	19 10
(g) Proprietary Club Liquor Licence—		
(i) Members' Club Liquor Licence—		
(i) In respect of clubs situate in or within three miles of the boundaries of Nairobi Municipality or Mombasa Municipality	3 0	—
(ii) In respect of clubs situate elsewhere	1 10	—
(ii) Railway Station Liquor Licence	15 0	9 0
(iii) Theatre Liquor Licence	30 0	16 10
(iv) Brewers' Liquor Licence	30 0	16 10
(v) Steamship Liquor Licence	10 0	6 00
(vi) Canteen Liquor Licence	7 10	4 10
(vii) Railway Restaurant Car Liquor Licence	15 0	9 0
(viii) Temporary Liquor Licence	1 10	a day
(ix) Temporary Extension Licence—		
(i) In respect of premises situate in or within three miles of the boundaries of Nairobi Municipality or Mombasa Municipality	Sh. 15	per hour
(ii) In respect of premises situate elsewhere	Sh. 10	per hour
(h) Camp Canteen Licence	Sh. 10	each

Provided that in respect of the municipality or town miles of such boundaries the licensor, in the case of the licensee, shall be liable to a fee as, having regard to the circumstances, he may deem to be reasonable.

(2) The holder of a General Retail Liquor Licence may hold an Hotel Liquor Licence or Café Liquor Licence in respect of the same premises for the same period without the payment of any licence fee in addition to the fee paid by him in respect of his General Retail Liquor Licence.

(3) A holder of a Railway Station Liquor Licence granted in respect of a railway rest-house may hold an Hotel Liquor Licence in respect of such rest-house for the same period of payment of one-quarter of the fee prescribed for an Hotel Liquor Licence in addition to the amount paid by him in respect of his Railway Station Liquor Licence.



Colony and Protectorate of Kenya.

IN THE TWENTY-SIXTH YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE V.

ARMIGEL DE VINS WADE, C.M.G., O.B.E.,
Acting Governor.

Assented to in His Majesty's
name this 23rd day of August
1935.

A. DE V. WADE
Acting Governor.

AN ORDINANCE TO AMEND THE LIQUOR
ORDINANCE, 1934

ORDINANCE No. XXVII of 1935

An Ordinance to Amend the Liquor Ordinance, 1934.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Liquor (Amendment) Ordinance, 1935, and shall be read as one with the Liquor Ordinance, 1934, hereinafter referred to as the Principal Ordinance. Short title.
No. 62 of 1934.

2. The Principal Ordinance is hereby amended by inserting therein, immediately after section 3 thereof, the following new section:— Amendment of the Principal Ordinance.

"2a. Nothing in this Ordinance relating to the application for or the holding of licences shall apply to the master of any vessel in any harbour of the Colony, other than a harbour on an inland water of the Colony, in respect of the sale on board such vessel to any passenger therein or to any officer or member of the crew of such vessel, of liquor for consumption in such vessel." Certain provisions not to apply to ships in coastal harbours.

3. Section 6 of the Principal Ordinance is hereby repealed. Repeal of section 6 of the Principal Ordinance.

4. Section 8 of the Principal Ordinance is hereby amended by inserting therein, between the word "out" and the word "in" in the fourth line thereof, the words "in this Ordinance and". Amendment of section 8 of the Principal Ordinance.

5. Section 10 of the Principal Ordinance is hereby amended— Amendment of section 10 of the Principal Ordinance.
(1) (a) by renumbering sub-section (1) (a) thereof as sub-section (1);

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ORDINANCE No. XXVII of 1935

An Ordinance to Amend the Liquor Ordinance, 1934.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Liquor (Amendment) Ordinance, 1935, and shall be read as one with the Liquor Ordinance, 1934, hereinafter referred to as the Principal Ordinance. Short title.
No. 62 of 1934.

2. The Principal Ordinance is hereby amended by inserting therein, immediately after section 2 thereof, the following new section:— Amendment of
the Principal
Ordinance.

"2A. Nothing in this Ordinance relating to the application for or the holding of licences shall apply to the master of any vessel in any harbour of the Colony, other than a harbour on inland water of the Colony, in respect of the sale on board such vessel to any passenger therein or to any officer or member of the crew of such vessel, of liquor for consumption in such vessel." Certain
provisions
not to apply
to ships in
coastal
harbours.

3. Section 6 of the Principal Ordinance is hereby repealed. Repeal of
section 6 of
the Principal
Ordinance.

4. Section 8 of the Principal Ordinance is hereby amended by inserting therein, between the word "out" and the word "in" in the fourth line thereof, the words "in this Ordinance and". Amendment of
section 8
of the
Principal
Ordinance.

5. Section 10 of the Principal Ordinance is hereby amended— Amendment of
section 10
of the
Principal
Ordinance.
(1) (a) by renumbering sub-section (1) (a) thereof as sub-section (1);

ORDINANCE No. XXVII of 1935

An Ordinance to Amend the Liquor Ordinance, 1934.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Liquor (Amendment) Ordinance, 1935, and shall be read as one with the Liquor Ordinance, 1934, hereinafter referred to as the Principal Ordinance.

Short title.
No. 62 of 1934.

2. The Principal Ordinance is hereby amended by inserting therein, immediately after section 2 thereof, the following new section:—

Amendment of the Principal Ordinance.

"2a. Nothing in this Ordinance relating to the application for, or the holding of licences shall apply to the master of any vessel in any harbour of the Colony, other than a harbour on an inland water of the Colony, in respect of the sale on board such vessel to any passenger therein or to any officer or member of the crew of such vessel, of liquor for consumption in such vessel."

Certain provisions not to apply to ships in coastal harbours.

3. Section 6 of the Principal Ordinance is hereby repealed.

Repeal of section 6 of the Principal Ordinance.

4. Section 8 of the Principal Ordinance is hereby amended by inserting therein, between the word "out" and the word "in" in the fourth line thereof, the words "in this Ordinance and".

Amendment of section 8 of the Principal Ordinance.

5. Section 10 of the Principal Ordinance is hereby amended—

Amendment of section 10 of the Principal Ordinance.

(1) (a) by renumbering sub-section (1) (a) thereof as sub-section (1);

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ORDINANCE No. XXVII of 1935

An Ordinance to Amend the Liquor Ordinance, 1934.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:

1. This Ordinance may be cited as the Liquor (Amendment) Ordinance, 1935, and shall be read as one with the Liquor Ordinance, 1934, hereinafter referred to as the Principal Ordinance.

Short title.

No. 62 of 1934

2. The Principal Ordinance is hereby amended by inserting therein, immediately after section 2 thereof, the following new section:

Amendment of the Principal Ordinance.

2A. Nothing in this Ordinance relating to the application for or the holding of licences shall apply to the master of any vessel in any harbour of the Colony, other than a harbour on an inland water of the Colony, in respect of the sale on board such vessel to any passenger therein or to any officer or member of the crew of such vessel, of liquor for consumption in such vessel."

Certain provisions not to apply to ships in coastal harbours.

3. Section 6 of the Principal Ordinance is hereby repealed.

Repeal of section 6 of the Principal Ordinance.

4. Section 8 of the Principal Ordinance is hereby amended by inserting therein, between the word "out" and the word "in" in the fourth line thereof, the words "in this Ordinance and".

Amendment of section 8 of the Principal Ordinance.

5. Section 10 of the Principal Ordinance is hereby amended—

Amendment of section 10 of the Principal Ordinance.

(1) (a) by renumbering sub-section (1) (a) thereof as sub-section (1);

- (b) by inserting therein, between the word "holder" and the word "to" in the second line of sub-section (1) (a) thereof, the word "thereof";
- (c) by deleting the full stop at the end of sub-section (1) (a) thereof and by adding the words "specified in such licence," immediately after the word "premises" in the last line of that subsection; and
- (d) by deleting paragraph (b) of sub-section (1) thereof;
- (2) (a) by substituting the words "holder thereof to sell on the premises specified therein," for the word "sale" in the first line of sub-section (2) (a) thereof;
- (b) by substituting the word "such" for the word "the" in the first line of paragraph (1) and in the first line of paragraph (1) of sub-section (2) (a) thereof; and
- (c) by deleting the word "of" in the first line of paragraph (1) and in the first line of paragraph (1) of sub-section (2) (a) thereof;
- (3) by substituting the words "holder thereof to sell" for the words "sale of" in the second line of sub-section (3), in the second line of sub-section (4), in the second line of sub-section (5) and in the second line of sub-section (6) (a) thereof;
- (4) (a) by inserting the words "by the holder thereof" between the word "and" and the word "on" which occur respectively in the second and third lines of sub-section (5) thereof;
- (b) by deleting the first and second proviso to sub-section (5) thereof and substituting therefor the following:—

"Provided that, in any municipality, township or area to which the Shop Hours Ordinance, 1925, has been applied and notwithstanding the provisions of sub-section (5) of section 7 and of sub-section (5) of section 9 of that Ordinance, such licence shall not authorize the sale of intoxicating liquor on any day or during any hours during which a shop may, under the provisions of such Ordinance or of any closing order made thereunder, be required to be closed for the serving of customers."

- (5) by deleting the last five lines of paragraph (c) of sub-section (7) thereof and substituting therefor the following:—
- "members are charged; or permitted to pay, for any refreshment or sleeping accommodation therein."
- (6) (a) by inserting the word "thereof" immediately after the word "holder" in the second line of sub-section (10) (a), in the second line of sub-section (12) (a) and in the second line of sub-section (14) (a) thereof;
- (b) by inserting the brackets and words " (other than of the premises specified in such general retail liquor licence) " between the word "place" and the word "of" in the third line of sub-section (10) (a) thereof;
- (7) by adding the following sub-paragraph to be lettered (d) to sub-section (12) thereof:—
- "(d) The provisions of section 33 of this Ordinance, in so far as they relate to the giving of thirty days' notice before the removal of a licence from the licensed premises to other premises may be authorized, shall not apply to the removal of a Steamship Liquor Licence from the steamship in respect of which it has been issued; to another steamship. Provided that the provisions of this paragraph shall only apply to a Steamship Liquor Licence in respect of steamships under the control of the High Commissioner for Transport."
- (8) by substituting the words "or their guests" for the word "only" which occurs in the fourth line of paragraph (a) of sub-section (13) thereof; and by inserting between the word "members" and the word "only" which occurs in the ninth line of that paragraph, the brackets and words "(including honorary members)";
- (9) by adding the following sub-paragraph to be lettered (d) to sub-section (14) thereof:—
- "(d) The provisions of section 33 of this Ordinance, in so far as they relate to the giving of thirty days' notice before the removal of a licence from the licensed premises to other premises may be authorized, shall not apply to the removal of a Railway Restaurant Car Liquor Licence from the Restaurant Car; in respect of which it has been

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issued, to another Restaurant Car: Provided that the provisions of this paragraph shall only apply to a Railway Restaurant Car Liquor Licence in respect of Railway Restaurant Cars under the control of the High Commissioner for Transport."

- (10) (a) by renumbering paragraphs (b) and (c) of sub-section (16) thereof as paragraphs (c) and (d) respectively, and by inserting therein the following new paragraph as paragraph (b) of that sub-section—

"(b) The District Commissioner may grant such licence subject to such reasonable restrictions and conditions as to him may seem fit: Provided that such restrictions and conditions shall not in any case be such as unduly to restrict the amenities which, by the granting of the licence, it is proposed to provide."

- (b) by inserting the words "on the premises specified in such temporary licence" between the word "liquor" and the dash in the fifth line of sub-section (16) (a) thereof;

- (11) by deleting therefrom sub-section (18) thereof and substituting therefor the following—

"(18) Nothing in this section contained shall be construed to mean that the holder of licence granted under the provisions of this Ordinance shall be compelled to sell liquor, cigars, cigarettes, tobacco or matches during the hours in which he is authorized by his licence to sell such liquor, cigars, cigarettes, tobacco and matches."; and

- (12) by adding thereto, immediately after sub-section (19) thereof, the following new sub-section—

"(20) (a) A licence issued under this Ordinance to a body corporate shall be issued to the secretary or to the manager, of such body corporate."

(b) No transfer of any such licence shall be necessary upon any change of holder of the office of secretary or manager of such body corporate, but any person for the time being holding such office shall be entitled to the privileges granted by, and shall be subject to the duties and liabilities imposed upon the holder of, such licence."

Licences to corporations.

6. Section 11 of the Principal Ordinance is hereby amended by adding at the end of the proviso thereto the following additional proviso—

Amendment of section 11 of the Principal Ordinance.

"Provided further that such member shall not, in any case where the Municipal Council or Municipal Board of which he is a member opposes any application before such licensing court, adjudicate upon such application."

7. Section 14 of the Principal Ordinance is hereby amended by substituting in the third line thereof the words "May and November" for the words "June and December"

Amendment of section 14 of the Principal Ordinance.

8. Sub-section (3) of section 20 of the Principal Ordinance is hereby amended by deleting therefrom the words "only until the close of its next ordinary meeting" and by substituting for such words "until the thirty-first day of December of the year in which it is granted"

Amendment of section 20 (3) of the Principal Ordinance.

9. Section 23 of the Principal Ordinance is hereby amended—

Amendment of section 23 of the Principal Ordinance.

(1) by substituting the word "March" for the word "April" in the eighth line of sub-section (1) thereof and by substituting the word "September" for the word "October" in the ninth line of that sub-section;

(2) by deleting paragraph (h) of sub-section (4) thereof and substituting therefor the following paragraph—
"(h) that a register of ordinary, honorary and temporary members is kept."

(3) by adding thereto, immediately after sub-section (5) thereof, the following new sub-section—

Change of licence.

"(6) Any person, being the holder of a licence issued to him under the provisions of this Ordinance, who desires, in lieu of obtaining a renewal of his existing licence; to obtain a liquor licence of a different description shall apply as if he were not the holder of a licence under this Ordinance and the provisions of this Ordinance relating to applications for and the grant of new licences shall apply to such application:

Provided that if the Court refuses to grant his application for such licence of a different description, his application shall, at his request, be deemed and taken to be an application for a renewal of his existing licence."

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Amendment of section 26 of the Principal Ordinance.

10. Section 26 of the Principal Ordinance is hereby amended by renumbering the two last sub-sections thereof, which are numbered (3) and (4), as sub-sections (4) and (5) respectively.

Amendment of section 27 of the Principal Ordinance.

11. Section 27 of the Principal Ordinance is hereby amended—

- (1) by deleting the sixth and seventh lines thereof and substituting therefor the following—

"Provided that a court may only refuse to the holder of a licence the renewal of such licence when it is proved to the satisfaction of the court that—"

- (2) by substituting the words "involving moral turpitude and not of a political character" for the words "not of a political character" in the twelfth line thereof; and

- (3) by adding thereto, immediately after paragraph (d) thereof, the following new paragraph—

"(e) that the premises in which the business of such holder is carried on are not in a proper state of repair or do not comply with the reasonable requirements of the Medical Officer of Health and that the owner of the premises or the holder of the licence refuses or is unable to give satisfactory guarantees that the necessary repairs will be carried out within a time specified by the court."

Amendment of section 30 of the Principal Ordinance.

12. Section 30 of the Principal Ordinance is hereby amended by deleting therefrom the word "kept" in the second line of sub-section (3) thereof.

Amendment of section 31 of the Principal Ordinance.

13. Section 31 of the Principal Ordinance is hereby amended by substituting the words "involving moral turpitude and not of a political character" for the words "not of a political character" in the fifth and sixth lines thereof.

Amendment of the Principal Ordinance.

14. The Principal Ordinance is hereby amended by inserting, between section 32 and section 33 thereof, the following new section:—

Temporary transfer to the owner of the premises.

"31. Where a licence has been granted under the provisions of section 43 of this Ordinance, the owner of the premises in respect of which the licence has been forfeited may, if he is not the person whose licence has been forfeited, apply to the district commissioner of the district in

which a licensing court is appointed to be held for the licensing area in which such premises are situated for a temporary transfer to himself or to a person named by him of such licence, and the district commissioner may, if he is satisfied that the person to whom it is desired to transfer such licence is not disqualified under this Ordinance from being granted a licence and upon payment by the applicant of the sum of shillings thirty, grant to such owner or to such person, as the case may be, a temporary transfer of such licence."

15. Section 35 of the Principal Ordinance is hereby amended by adding thereto at the end thereof the following proviso:—

Amendment of section 35 of the Principal Ordinance.

"Provided that where the application is made in respect of a temporary transfer granted under the provisions of section 32A of this Ordinance, a licensing court may only refuse to ratify such temporary transfer if the temporary transferee is a person in respect of whom the court could have refused to renew a licence under the provisions of section 27 of this Ordinance."

16. Section 42 of the Principal Ordinance is hereby amended by deleting therefrom the comma and number "40" in the first line thereof.

Amendment of section 42 of the Principal Ordinance.

17. Section 43 of the Principal Ordinance is hereby amended—

Amendment of section 43 of the Principal Ordinance.

- (a) by substituting the word "premises" for the word "premises" which occurs in the sixth line of sub-section (3) thereof;

- (b) by substituting a colon for the full stop which occurs at the end of sub-clause (5) thereof; and

- (c) by adding immediately after such colon the following proviso:—

"Provided that it shall not be an offence for the holder of a licence to allow the consumption on the premises, between the hour of closing and fifteen minutes after such hour, of liquor purchased with and for consumption at a meal on the premises if such liquor and such meal were purchased before the hour of closing."

Amendment of section 45 of the Principal Ordinance.

18. Section 45 of the Principal Ordinance is hereby amended by substituting the words "an ordinary, honorary, temporary or reciprocity" for the letter "a" in the second line thereof.

Amendment of section 46 of the Principal Ordinance.

19. Section 46 of the Principal Ordinance is hereby amended by substituting the words "preceding twelve months" for the word "year" which occurs in the first line of sub-section (4) thereof.

Amendment of the Principal Ordinance.

20. The Principal Ordinance is hereby amended by inserting therein, immediately after section 46 thereof, the following new section—

Disqualification of premises.

46. Where the forfeiture of a licence is ordered under the provisions of section 46 of this Ordinance and it is proved to the court making such order that the forfeiture of a licence in respect of the same premises has been ordered within a period of two years immediately preceding the date of such order, the court when making such order of forfeiture may disqualify such premises from being licensed under this Ordinance for a period not exceeding one year from the date of such last mentioned order.

Amendment of section 50 of the Principal Ordinance.

21. Section 50 of the Principal Ordinance is hereby amended by substituting the words "Ordinance or of any Rule made thereunder" for the word "Ordinance" in the second line thereof.

Amendment of the Principal Ordinance.

22. The Principal Ordinance is hereby amended by inserting therein, immediately after section 54 thereof, the following new section—

Liability for offences of employees.

54A. Any holder of a licence under this Ordinance who employs, on the premises in respect of which the licence has been issued, any person in connection with the sale of liquor, shall be answerable for the acts and omissions of such employee in so far as this Ordinance is concerned.

Amendment of section 56 of the Principal Ordinance.

23. Section 56 of the Principal Ordinance is hereby amended by substituting the bracketted number "(4)" for the bracketted number "(6)", in the fourth line of sub-section (1) thereof.

Amendment of section 63 of the Principal Ordinance.

24. Section 63 of the Principal Ordinance is hereby amended—
(1) by substituting the following proviso for the proviso to sub-section (2) thereof—

Provided that if the second instalment is not paid by the thirtieth day of June in the year in which the licence was issued there shall be added to such instalment a penalty of ten per centum of the amount of such instalment, and if such instalment together with such penalty is not paid within fourteen days after the said thirtieth day of June, such licence shall be deemed to have lapsed with effect from the last mentioned date"; and

(2) by adding thereto the following new sub-section to be numbered (3)—

"(3) Where a licence has been granted to any person under the provisions of this Ordinance and the full yearly or half-yearly licence fee, as the case may be, in respect of such licence has been paid, and such person ceases to carry on the business of the sale of liquor in respect of which the licence was granted, he may surrender such licence to the Governor; and the Governor may authorize the refund to such person of one-half of the fee paid if the licence has six months or more to run and one-quarter of the fee paid if the licence has less than six months or more than three months to run: Provided that, where under the provisions of sub-section (2) of this section only the first instalment of the licence fee has been paid in respect of an annual licence, the refund which may be authorized in such case shall be one-quarter of the fee actually paid and shall only be authorized if the licence is surrendered before the thirty-first day of March. The provisions of this sub-section shall be deemed to have come into operation on the first day of January, 1935."

25. Section 60 of the Principal Ordinance is hereby repealed and the following section is substituted therefor—

60. (1) Where any costs are incurred by the members of a licensing court in connection with legal proceedings instituted against them in their official capacity such costs shall, unless the court before which the proceedings are taken orders such costs to be borne by the opposite party, be paid by the Treasurer out of the revenues of the Colony.

(2) Where any costs are awarded against the members of a licensing court in connection with legal proceedings instituted against them in their official capacity such costs

Repeal and replacement of section 60 of the Principal Ordinance.

Costs incurred in legal proceedings.

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Amendment of section 45 of the Principal Ordinance. 18. Section 45 of the Principal Ordinance is hereby amended by substituting the words "an ordinary, honorary temporary or reciprocity" for the letter "a" in the second line thereof.

Amendment of section 46 of the Principal Ordinance. 19. Section 46 of the Principal Ordinance is hereby amended by substituting the words "preceding twelve months" for the word "year" which occurs in the first line of sub-section (4) thereof.

Amendment of the Principal Ordinance. 20. The Principal Ordinance is hereby amended by inserting therein, immediately after section 46 thereof, the following new section—

Disqualification of premises. 20A. Where the forfeiture of a licence is ordered under the provisions of section 46 of this Ordinance and it is proved to the court making such order that the forfeiture of a licence in respect of the same premises has been ordered within a period of two years immediately preceding the date of such order, the court when making such order of forfeiture may disqualify such premises from being licensed under this Ordinance for a period not exceeding one year from the date of such last mentioned order."

Amendment of section 50 of the Principal Ordinance. 21. Section 50 of the Principal Ordinance is hereby amended by substituting the words "Ordinance or of any Rule made thereunder" for the word "Ordinance" in the second line thereof.

Amendment of the Principal Ordinance. 22. The Principal Ordinance is hereby amended by inserting therein, immediately after section 54 thereof, the following new section—

Liability for offences of employees. 54A. Any holder of a licence under this Ordinance who employs, on the premises in respect of which the licence has been issued, any person in connection with the sale of liquor, shall be answerable for the acts and omissions of such employee in so far as this Ordinance is concerned."

Amendment of section 56 of the Principal Ordinance. 23. Section 56 of the Principal Ordinance is hereby amended by substituting the bracketted number "(4)" for the bracketted number "(5)", in the fourth line of sub-section (1) thereof.

Amendment of section 63 of the Principal Ordinance. 24. Section 63 of the Principal Ordinance is hereby amended— (1) by substituting the following proviso for the proviso to sub-section (2) thereof—

Provided that if the second instalment is not paid by the thirtieth day of June in the year in which the licence was issued there shall be added to such instalment a penalty of ten per centum of the amount of such instalment, and if such instalment together with such penalty is not paid within fourteen days after the said thirtieth day of June, such licence shall be deemed to have lapsed with effect from the last mentioned date." ; and

(2) by adding thereto the following new sub-section to be numbered (8)—

"(8) Where a licence has been granted to any person under the provisions of this Ordinance and the full yearly or half-yearly licence fee, as the case may be, in respect of such licence has been paid, and such person ceases to carry on the business of the sale of liquor in respect of which the licence was granted, he may surrender such licence to the Governor; and the Governor may authorize the refund to such person of one-half of the fee paid if the licence has six months or more to run and one-quarter of the fee paid if the licence has less than six months or more than three months to run: Provided that, where under the provisions of sub-section (2) of this section only the first instalment of the licence fee has been paid in respect of an annual licence, the refund which may be authorized in such case shall be one-quarter of the fee actually paid and shall only be authorized if the licence is surrendered before the thirty-first day of March. The provisions of this sub-section shall be deemed to have come into operation on the first day of January, 1935."

25. Section 60 of the Principal Ordinance is hereby repealed and the following section is substituted therefor—

60. (1) Where any costs are incurred by the members of a licensing court in connection with legal proceedings instituted against them in their official capacity such costs shall, unless the court before which the proceedings are taken orders such costs to be borne by the opposite party, be paid by the Treasurer out of the revenues of the Colony.

(2) Where any costs are awarded against the members of a licensing court in connection with legal proceedings instituted against them in their official capacity such costs

Repeal and replacement of section 60 of the Principal Ordinance.

Costs incurred in legal proceedings.

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Amendment of
the Principal
Ordinance.

shall, unless the court before which the proceedings are taken orders such costs to be paid by such members, be paid by the Treasurer out of the revenues of the Colony.

26. The Principal Ordinance is hereby amended—

- (a) by deleting the words and commas "a Swahili," "a Baluchi born in Africa," where they occur in sub-section (2) of section 2, in sub-section (4) of section 31 and in sub-section (1) of section 39 thereof;
- (b) by deleting the words and commas "Swahilis," "Baluchis born in Africa," where they occur in sub-sections (3) and (5) of section 2 and in sub-section (8) of section 39 thereof;
- (c) by deleting the words and commas "Swahili," "Baluchi born in Africa," where they occur in sub-section (1) of section 39 and in sub-section (1) of section 41 thereof; and
- (d) by deleting the words and commas "or a Swahili," "or a Baluchi born in Africa," where they occur in section 42 thereof.

27. The Schedule to the Ordinance is hereby amended by the addition of the following proviso at the end of sub-clause (f) of clause (1) thereof:

"Provided that in respect of premises situated without the municipality or township boundaries but within three miles of such boundaries the Governor may, on the application of the licensee, remit such portion of the licence fee as, having regard to all the circumstances of the case, he may deem to be reasonable."

28. The provisions of section 7 and of paragraph (1) of section 9 of this Ordinance shall come into operation on the first day of July, 1935.

Passed in the Legislative Council the third day of August, in the year of our Lord one thousand nine hundred and thirty five.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

J. F. G. TROUGHTON

Acting Clerk of the Legislative Council.

44

REPORT
OF
THE SELECT COMMITTEE OF LEGISLATIVE COUNCIL
APPOINTED TO CONSIDER AND REPORT UPON THE
PROVISIONS OF A BILL TO AMEND THE LIQUOR
ORDINANCE, 1934

Your Excellency,

We, the members of the Select Committee of Legislative Council appointed to consider and report upon the provisions of the above Bill, have the honour to recommend that the Bill be amended in the following respects—

1. By renumbering sub-clause (4) of Clause 5 thereof as (4)(a) and by adding the following new paragraph to that sub-clause—

"(b) by deleting the first and second provisos to sub-section (5) thereof and substituting therefor the following—

No. 24 of 1925. "Provided that, in any municipality, township or area to which the Shop Hours Ordinance, 1925 has been applied and notwithstanding the provisions of sub-section (5) of section 7 and of sub-section (5) of section 9 of that Ordinance, such licence shall not authorise the sale of intoxicating liquor on any day or during any hours during which a shop may, under the provisions of such Ordinance or of any closing order made thereunder, be required to be closed for the serving of customers."

2. By deleting sub-clause (5) of Clause 5 thereof and substituting therefor the following—

"(5) by deleting the last five lines of paragraph (a) of sub-section (7) thereof and substituting therefor the following—

"members or the invited guests of members are charged, or permitted to pay, for any refreshment or sleeping accommodation therein."

3. By inserting immediately after sub-clause (6) of Clause 5 the following new sub-clause to be numbered (7)—

"(7) by adding the following sub-paragraph, to be lettered (d), to sub-section (12) thereof—

"(d) The provisions of section 33 of this Ordinance, in so far as they relate to the giving of thirty days' notice before the removal of a licence from the licensed premises to other premises may be authorised, shall not apply to the removal of a Steamship Liquor Licence from the

Amendments to
the Principal
Ordinance.

shall, unless the court before which the proceedings are taken orders such costs to be paid by such members, be paid by the Treasurer out of the revenues of the Colony.

25. (The Principal Ordinance is hereby amended—

- (a) by deleting the words and commas "A Swahili", "Baluchi born in Africa," where they occur in sub-section (2) of section 2, in sub-section (4) of section 31 and in sub-section (1) of section 39 thereof;
- (b) by deleting the words and commas "Swahili," "Baluchi born in Africa," where they occur in sub-sections (3) and (5) of section 2 and in sub-section (3) of section 39 thereof;
- (c) by deleting the words and commas "Swahili," "Baluchi born in Africa," where they occur in sub-section (1) of section 39 and in sub-section (1) of section 41 thereof; and
- (d) by deleting the words and commas "or a Swahili," "or a Baluchi born in Africa," where they occur in section 42 thereof.

27. The Schedule to the Ordinance is hereby amended by the addition of the following proviso at the end of sub-clause (f) of clause (1) thereof:

"Provided that in respect of premises situated without the municipality or township boundaries but within three miles of such boundaries the Governor may, on the application of the licensee, remit such portion of the licence fee as, having regard to all the circumstances of the case, he may deem to be reasonable."

28. The provisions of section 7 and of paragraph (1) of section 9 of this Ordinance shall come into operation on the first day of July, 1935.

Passed in the Legislative Council the third day of August in the year of our Lord one thousand nine hundred and thirty five.

This printed invitation has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

J. F. G. TROUSILTON

Acting Clerk of the Legislative Council.

THE SELECT COMMITTEE OF LEGISLATIVE COUNCIL
APPOINTED TO CONSIDER AND REPORT UPON THE
PROVISIONS OF A BILL TO AMEND THE LIQUOR
ORDINANCE, 1934

Your Excellency,

We, the members of the Select Committee of Legislative Council appointed to consider and report upon the provisions of the above Bill, have the honour to recommend that the Bill be amended in the following respects—

1. By renumbering sub-clause (4) of Clause 5 thereof as (4)(a) and by adding the following new paragraph to that sub-clause—

"(b) by deleting the first and second provisos to sub-section (5) thereof and substituting therefor the following—

No. 24 of 1925.

"Provided that, in any municipality, township or area to which the Shop Hours Ordinance, 1925 has been applied and notwithstanding the provisions of sub-section (5) of section 7 and of sub-section (5) of section 9 of that Ordinance, such licence shall not authorise the sale of intoxicating liquor on any day or during any hours during which a shop may, under the provisions of such Ordinance or of any closing order made thereunder, be required to be closed for the serving of customers;"

2. By deleting sub-clause (5) of Clause 5 thereof and substituting therefor the following—

"(5) by deleting the last five lines of paragraph (a) of sub-section (7) thereof and substituting therefor the following—

members or the invited guests of members are charged, or permitted to pay, for any refreshment or sleeping accommodation therein."

3. By inserting immediately after sub-clause (6) of Clause 5 the following new sub-clause to be numbered (7)—

"(7) by adding the following sub-paragraph, to be lettered (d), to sub-section (12) thereof—

"(d) The provisions of section 35 of this Ordinance, in so far as they relate to the giving of thirty days' notice before the removal of a licence from the licensed premises to other premises may be authorised, shall not apply to the removal of a Steamship Liquor Licence from the

Steamship, in respect of which it has been issued, to another Steamship: Provided that the provisions of this paragraph shall only apply to a Steamship liquor licence in respect of ~~Railway~~ Steamships under the control of the High Commissioner for Transport.

4. By inserting immediately after the new sub-clause (7) referred to in the last preceding paragraph of this Report the following new sub-clause to be numbered (8) -

"(8) by substituting the words "or their guests" for the word "only" which occurs in the fourth line of paragraph (a) of sub-section (13) thereof, and by inserting between the word "members" and the word "only" which occur in the ninth line of that paragraph, the brackets and word "(including honorary members)"."

5. By inserting immediately after the new sub-clause (8) referred to in the last preceding paragraph of this Report the following new sub-clause to be numbered (9) -

"(9) by adding the following sub-paragraph, to be lettered (d), to sub-section (14) thereof -

"(d) The provisions of section 33 of this Ordinance, in so far as they relate to the giving of thirty days' notice before the removal of a licence from the licensed premises to other premises may be authorised, shall not apply to the removal of a Railway Restaurant Car Liquor Licence from the Restaurant Car, in respect of which it has been issued, to another Restaurant Car: Provided that the provisions of this paragraph shall only apply to a Railway Restaurant Car Liquor Licence in respect of Railway Restaurant Cars under the control of the High Commissioner for Transport."

6. By renumbering the present sub-clause (7) of Clause 5 thereof as (10), by deleting therefrom paragraph (a) thereof and by substituting therefor the following -

"(a) by renumbering paragraphs (b) and (c) of sub-section (16) thereof as paragraphs (c) and (d) respectively, and by inserting therein the following new paragraph as paragraph (b) of that sub-section -

"(b) The district commissioner may grant such licence subject to such reasonable restrictions and conditions as to him may seem fit: Provided that such restrictions and conditions shall not in any case be such as unduly to restrict the amenities which, by the granting of the licence, it is proposed to provide."

7. By renumbering sub-clause (8) of Clause 5 as sub-clause (11).

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Steamship, in respect of which it has been issued, to another Steamship: Provided that the provisions of this paragraph shall only apply to a Steamship Liquor Licence in respect of ~~Railway~~ Steamships under the control of the High Commissioner for Transport."

4. By inserting after the new sub-clause (7) referred to in the last preceding paragraph of this Report the following new sub-clause to be numbered (8) -

"(8) by substituting the words "or their guests" for the word "only" which occurs in the fourth line of paragraph (a) of sub-section (13) thereof, and by inserting between the word "members" and the word "only" which occur in the ninth line of that paragraph, the brackets and word "(including honorary members)"."

5. By inserting immediately after the new sub-clause (8) referred to in the last preceding paragraph of this Report the following new sub-clause to be numbered (9) -

"(9) by adding the following sub-paragraph, to be lettered (d), to sub-section (14) thereof -

"(d) The provisions of section 33 of this Ordinance, in so far as they relate to the giving of thirty days' notice before the removal of a licence from the licensed premises to other premises may be authorised, shall not apply to the removal of a Railway Restaurant Car Liquor Licence from the Restaurant Car, in respect of which it has been issued, to another Restaurant Car: Provided that the provisions of this paragraph shall only apply to a Railway Restaurant Car Liquor Licence in respect of Railway Restaurant Cars under the control of the High Commissioner for Transport."

6. By renumbering the present sub-clause (7) of Clause 5 thereof as (10), by deleting therefrom paragraph (a) thereof and by substituting therefor the following -

"(a) by renumbering paragraphs (b) and (c) of sub-section (16) thereof as paragraphs (c) and (d) respectively, and by inserting therein the following new paragraph as paragraph (b) of that sub-section -

"(b) The district commissioner may grant such licence subject to such reasonable restrictions and conditions as to him may seem fit: Provided that such restrictions and conditions shall not in any case be such as unduly to restrict the amenities which, by the granting of the licence, it is proposed to provide."

7. By renumbering sub-clause (8) of Clause 5 as sub-clause (11).

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8. By inserting the following new sub-clause as sub-clause (12) of Clause 5 -

"(12) by deleting therefrom sub-section (18) thereof and substituting therefor the following -

"(18) Nothing in this section contained shall be construed to mean that the holder of licence granted under the provisions of this Ordinance shall be compelled to sell liquor, cigars, cigarettes, tobacco or matches during the hours in which he is authorised by his licence to sell such liquor, cigars, cigarettes, tobacco and matches."

9. By deleting the fourth, fifth, sixth and seventh lines of Clause 6 and substituting therefor the following -

"Provided further that such members shall not, in any case where the municipal council or municipal board of which he is a member"

10. By inserting the following new Clause as Clause 17 and by renumbering accordingly the subsequent Clauses -

"Amendment of section 45 of the Principal Ordinance.

17. Section 45 of the Principal Ordinance is hereby amended -

(a) by substituting the word "premises" for the word "pemis" which occurs in the sixth line of sub-section (3) thereof;

(b) by substituting a colon for the full stop which occurs at the end of sub-clause (5) thereof; and

(c) by adding immediately after such colon the following proviso -

"Provided that it shall not be an offence for the holder of a licence to allow the consumption on the premises, between the hour of closing and fifteen minutes after such hour, of liquor purchased with and for consumption at a meal on the premises if such liquor and such meal were purchased before the hour of closing."

11. That the present clause 23 be amended -

(a) by inserting the figure and bracket (1) between the word "amended" and the word "by" which occur in the second line thereof;

(b) by adding a colon and the word "and" at the end of the Clause; and

(c) by adding after such word the following new paragraph -

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"(2) by adding thereto the following new sub-section to be numbered (3):

(3) where a licence has been granted to any person under the provisions of this Ordinance and the full yearly or half-yearly licence fee, as the case may be, in respect of such licence has been paid, and such person ceases to carry on the business of the sale of liquor in respect of which licence was granted, he may surrender such licence to the Governor, and the Governor may authorise the refund to such person of one-half of the fee paid if the licence has six months or more to run and one-quarter of the fee paid if the licence has less than six months or more than three months to run. Provided that, where under the provisions of sub-section (2) of this section only the first instalment of the licence fee has been paid in respect of an annual licence, the refund which may be authorised in such case shall be one-quarter of the fee actually paid and shall only be authorised if the licence is surrendered before the thirty-first day of March. The provisions of this sub-section shall be deemed to have come into operation on the first day of January, 1935.

12. By renumbering the present Clause 25 as 27 and inserting the following new Clause as Clause 26 -

26. The Principal Ordinance is hereby amended -

- (a) by deleting the words and commas "a Swahili, a Baluchi born in Africa," where they occur in sub-section (2) of section 2, in sub-section (4) of section 31 and in sub-section (1) of section 39 thereof;
- (b) by deleting the words and commas "Swahili, Baluchis born in Africa," where they occur in sub-sections (4) and (5) of section 2 and in sub-section (5) of section 39 thereof;
- (c) by deleting the words and commas "Swahili, Baluchi born in Africa," where they occur in sub-section (1) of section 39 and in sub-section (1) of section 41 thereof; and
- (d) by deleting the words and commas "or a Swahili or a Baluchi born in Africa," where they occur in section 42 thereof."

Amendment
of the
Principal
Ordinance.

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We have the honour to be,
Your Excellency's obedient servants,

- SD. W. HARRAGIN (CHAIRMAN)
- SD. W.M. LOGAN (MEMBER)
- SD. G.D. KIRSOPP (MEMBER)
- SD. J.G. KIRKWOOD (MEMBER)
- SD. H.F. SCHWARTZ (MEMBER)
- SD. E.H. WRIGHT (MEMBER)
- SD. A.C.L. DE SOUZA (MEMBER)

Nairobi,
5th July, 1955

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38028
D
DOWLING STREET,

April
4 March, 1935.

Dear Wade,

A brief line to condole with you on having succeeded to the Administration. As the Lord Chancellor says in *Yolanthe*, "It is difficult to sit on a woolpack which is stuffed with such thorns". However, I have no doubt that your skin is tough enough to resist them, or perhaps to take comfort from the thought of the Indian fakir who takes his afternoon siesta on a plank studded with a lot of sharp nails.

You are getting a somewhat woolly despatch about the liquor licensing Ordinance, from which you will note that the Secretary of State has no objection to it but feels some doubt as to how far its provisions are really applicable. I, for one, do not regard the licensing laws in this country as anything of a model except as a model one ought to avoid, but since local opinion, both Official and Unofficial, has blessed the thing, by all means go ahead.

A. DE V. WADE, ESQ., C.B.E.

ahead.

Have you really considered that under Section 10(7)(a) a gentleman who goes into his club for a short one preparatory to setting out on a journey, commits a crime if he gets a flask filled with refreshment for consumption on his journey or when he reaches his destination? I don't suppose you have, but I fear the result will be a considerable quantity of law breaking both by individuals and by the clubs, who will fill up the flasks just as merrily as ever. In clubs in this country it is got over by leaving the flask about the place, when an innocent waiter proceeds to fill it when you are not looking. You then, also, by forgetfulness, leave behind you a sum of money which curiously enough covers the cost of the drink if you had bought it, but such subterfuges are not usually regarded with favour.

Section 3 of the same Ordinance maintains the existing provision which allows a man to distil wine or spirits from his own grapes or fruit. I do not propose to enquire how anybody is going to distil wine, but this Section does raise a serious point in that it is a flat contravention of the famous Liquor Traffic Convention of 1919 which definitely prohibits the ownership of stills or any part thereof.

BE REPEALED BY THE PARLIAMENT OF GREAT BRITAIN
 PUBLIC AFFAIRS - WHITE PAPER
 C.O. 533 455
 LONDON

We know, of course, that it does not matter, but the Convention is there and we have got to call attention to the fact that the possession of a still, no matter how innocent under the Kenya Ordinance, would be an offence under the Convention and therefore, for window dressing purposes, the Ordinance has got to be modified. Our legal people have suggested sundry other amendments and criticisms which you will find in the despatch.

The thing, of course, does not press and I don't suppose that any of it is of practical importance, but we have got to justify our existence somehow.

I wish you all the best during your term of office as C.A.G. and I hope you will believe me when I say that I shall do my best not to bother you too much.

Yours sincerely,
 (Signed) J. E. W. FLOOD

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Mr. Flood. 29-3

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Mr. Dale 29.3

will they do? Rummah

Mr.

Mr. Parkinson.

Sir G. Tomlinson

Sir C. Bottomley 31.3 f

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Received by No 8

DOWNING STREET,

March, 1935.

4 APR 1935

G.D.
4 APR
3 Apr.

Sir,

DRAFT.

KENYA.

NO. 243

O.A.G.

(1)

I have the honour to acknowledge the receipt of Sir Joseph Byrne's despatch No. 29 of the 11th January forwarding copies of Ordinance No. 62 of 1934 entitled "An Ordinance to provide for the Control of the Sale of liquor". I note that this Ordinance consolidates the existing law and the amendments advised by the Committee appointed to examine the legislation governing liquor licensing in Kenya and I now have to inform you that His Majesty will not be advised to exercise his power of disallowance in respect of the Ordinance in question.

2. In its present form the Ordinance appears to be modelled

FURTHER ACTION.

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largely on the conditions and regulations which have been adopted in this country.

I am, however, doubtful whether such regulations are really applicable in a country like Kenya which cannot be faced with the same problems as those which have called forth the regulations adopted here. Still, since the Ordinance is the work of a representative Committee including both Officials and Unofficials, I am prepared to accept their views and I have no desire to suggest any alterations except with regard to some legal points which I will discuss in the succeeding paragraphs of this despatch.

3. In Section 2, sub-sections (2), (3) and (5), 'Swahilis' are mentioned apart from natives. The definition of 'native', which has just been adopted in Ordinance 55 of 1934, includes Swahilis and it might be thought that there is some inconsistency between the two Ordinances. I assume, however, that Swahilis are included in the Ordinance.

C. O.

Mr.
Mr.
Mr.

Mr. Parkinson.
Sir G. Tomlinson
Sir C. Bottomley.
Sir J. Shuckburgh
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

would be avoided if the definition contained in Ordinance 55 of 1934 would be properly adopted.

DRAFT.

FURTHER ACTION.

Ordinance now under my consideration for greater caution and to remove any possible doubts. I would suggest however that in future legislation any possibility of ambiguity in Section 6 of the Ordinance allows the owner or occupier of land to distill wine or spirituous liquor from grapes or fruits grown on such land for his own use. This Section is taken as it stands from Chapter 71 of the revised edition of the Kenya laws, and was the law in force prior to the conclusion of the Convention relating to the liquor traffic in Africa which was signed at St. Germain-en-Laye on the 1st September 1919, and was not amended after that Convention came into force. The Convention, however, prohibits in absolute terms the distillation of spirituous beverages and the possession of stills or parts of stills by any person within the zone to which it applies, and since Kenya is within that zone, it follows

allows that the provisions of Section
of the Ordinance are not compatible
in the terms of the Convention. I
not consider that in the circumstances
the conflict is serious, but it would be
advisable that at the first convenient
opportunity Section 6 should be removed
from the Ordinance, so that the distilla-
tion of ^{spirits} Cyprus liquor may not be legal in
any circumstances. In Sections 26 and 28
provision is made for notice of any
objection to the renewal of a licence
to be given to the applicant for renewal,
and in case ~~any~~ notice is given to enable
the applicant to secure an adjournment
of the hearing of the application. There
is, however, no such provisions for the
benefit of an applicant for a new licence
whose application objection may be made,
and I presume that such provision has
been accidentally omitted. In Section 26
also, sub-sections (3) and (4) should apparently
be re-numbered (4) and (5).

6. In

C. O.

Mr.

Mr.

Mr.

Mr. Parkinson

Sir G. Tomkinson

Sir C. Bollowley

Sir J. Shuckburgh

Parly. U.S. of S.

Parly. U.S. of S.

Secretary of State

DRAFT.

FURTHER ACTION.

54

6. In Section 46(4) there is some
room for doubt whether the words
"within the year" are intended to mean
within the licensing year or within any
period of 365 days. It seems probable
that the phrase is intended to mean,
as in the case of the immediately
preceding sub-section 46(3), "within the
preceding ^{year} 12 months, but it might be
well to make the intention absolutely
clear on a suitable opportunity.

7. It is not clear whether Section
49 is intended to make it a substantive
offence for a licence holder to permit
another person to be on his premises
during prohibited hours or whether the
Section merely deals with the evidence
necessary for the proof of the sale
within prohibited hours. Such sale is an
offence already under Section 43
sub-section (5) of the Ordinance.

8. With regard to Section 52 of the
Ordinance which is taken from Section

64 of the preceding Ordinance, there appears to be some room for doubt. It is suggested that there is no offence named in the Ordinance which in the words of sub-section (2) "non repetition renders the premises liable to be disqualified from receiving a licence for any period" as described in sub-paragraph (a). Further, sub-paragraph (b) might be held to imply that there is a duty laid by law on the landlord of licenced premises to evict his tenant as soon as the latter is convicted of such an offence as above mentioned, so that it is at least doubtful as to what are the precise implications of this Section. You will no doubt inform me in due course as to the exact nature of the case which this sub-section is intended to meet.

9. Section 39 makes it an offence to supply intoxicating liquor to "any native, Swahili, Somali, Baluchi born in Africa, Malagasy or Comoro Islander",

and

C. O.

- Mr.
- Mr.
- Mr.
- Mr. Parkhouse
- Sir G. Tomlinson
- Sir C. Bothamley
- Sir J. Stubbings
- Parad. U.S. of S.
- Parad. U.S. of S.
- Secretary of State.

DRAFT

I do not need to summarize the contents of the report in its entirety, but it is generally felt that the laying down of minimum penalties is open to objection.

10. Section 34. The reference in sub-section (1) to sub-section (5) of section 55 is apparently a mistake. It should refer to sub-sections (a) (3) and (4) of section 55.

FURTHER ACTION.

and sub-sections 2(b) and (c) provide minimum penalties for any offence. In the law of this country (apart from capital offences), the only instance in which a minimum penalty is imposed appears to be under the Road Traffic Act (Section 16(2)), which provides that a person convicted under that Section shall be disqualified from holding a licence for 12 months at least, unless the Court for special reasons thinks fit to order otherwise. When a minimum penalty is prescribed, there is always the possibility that a case will occur where it would be inequitable to impose it and the Court is then faced with a dilemma unless some such provision as that in the English enactment to which I have referred is available.

You will no doubt take the foregoing remarks into consideration and when a suitable opportunity

occurs, proceed to amend the Liquor
Licensing Ordinance as may prove necessary.

I have, etc.

(Sgd.) P. CUNLIFFE-LISTER

Ordinance No. 8 of 1933, however, amended the penalties in regard to second or subsequent offences to a fine of £500 and, in default, ~~to imprisonment for 3 years, or to~~ imprisonment for five years, or to both such penalties.

It will be observed that the penalties to which objection is taken in the minutes on this paper relate to the supply of intoxicating liquor to natives, which may be regarded as a much more serious offence than illicit distilling by natives.

2.

the Ordinance in Bill form shewing in red ink the variations from the repealed Ordinance are also enclosed.

I have the honour to be,

Sir,

Your most obedient, humble servant,

A. W. Wade

GOVERNOR'S DEPUTY.

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THE LIQUOR BILL, 1934.

LEGAL REPORT.

The object of this Bill is to give effect to the recommendations of the Liquor Licensing Committee whose report was adopted by Legislative Council on the 1st August last.

In view of the number of amendments involved it was considered desirable to draft a consolidating Bill embodying the existing law and the Committee's amendments.

A copy of the Bill showing in red ink the variations from the repealed Ordinance is attached.

In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

Nairobi,
31st December, 1934.

W. H. J. O'Connell
ATTORNEY GENERAL.

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COMPARATIVE TABLE.

THE LIQUOR BILL, 1954.

Clauses of the Bill.	Corresponding Sections of the Liquor Ordinance, Cap. 71 of the Revised Edition.	Remarks.
1	Short title.	
2 (1)	2 (1) modified.	
(2)	(2) modified, consequential on definition of "native" in the Interpretation (Definition of "Native") Ordinance, 1954.	
(5)	(5) - ditto -	
(4)	(4)	
(5)	(5) - ditto -	
(6)	(6) modified.	
5	5 The definitions of "intoxicating medicine" and "meal" are new; the definition of "intoxicating liquor" or "liquor" has been amended by the substitution of the "of a strength exceeding 5 per centum of proof spirit" for the words "containing more than two per cent. of alcohol" and the definition of "licensing area" is a redraft.	
4	4	
5	5	
6	6 modified.	
7	7 modified.	
8	8 modified.	
9	9 modified. The last four licences are new.	
10 (1)	10 (1)	
11 (2) (a)	(2) (a) modified and redrafted.	
(b)	(b)	
(c)	(c)	

60

6

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PUBLIC RECORD OFFICE

Reference -

C.O. 533

455

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Clauses of
the Bill.

Corresponding Sections
of the Liquor Ordinance,
Cap. 71 of the Revised
Edition.

Remarks.

10(3)	Redraft of 10(5); Hours varied.
(4)	" " 10(4); -do-
(5)	10(5) modified. The provisos are new.
(6)	(6) " Hours varied.
(7)	(7) ^{Licence} Members' Club introduced.
(8)	(8) redrafted.
(9)	(9) modified.
10(a)	10(a)
(b)	(b)
(c)	(c)
(d)	(d)
(11)	(11)
12(a)	12(a)
(b)	(b)
(c)	(c) redrafted, with some modifications
15(a)	15(a) modified. Royal Air Force and Defence Forces included.
(b)	New.
(c)	Second paragraph of (b) modified.
14	14
15	New.
16	New.
17	New.
18	New.
19	New.
11	11 redrafted.
12(1) (a))	12 (1)(2)(5) and (4).
(b))	
(c))	
(d))	
(e)	(5) redrafted
(f)	(6) redrafted

PUBLIC RECORD OFFICE				
1	2	3	4	5
6	7	8	9	10

Reference No.
CO. 533 455

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Clauses of the Bill.	Corresponding Sections of the Liquor Ordinance, Cap. 71 of the Revised Edition.	Remarks.
12 (1) (g) (h) (2)	12 (1) (7), first paragraph. (7), last paragraph. (7), second paragraph redrafted.	
13	13	
14	14 modified.	
15	16	
16	17	
17	18 redrafted.	
18	19 modified.	
19	21	
20	22 slightly modified. Special meetings to be held if Governor thinks fit.	
21 (1)	23 (1)	
(2)	(2)	
22 (1)	24 (1)	
(1, 2nd para.)	25 (4) modified.	
(1, 3rd para.)	24 (1), second paragraph.	
(2)	(2)	
(5)	New.	
(4)	New.	
(5)	New.	
23 (1)	25 (1) redrafted.	
(2)	(2)	
(5)	(3) redrafted.	
24	26	
25	27	
26	28	
27	29 Two provisos new.	
28 (1)	30 (1) redrafted.	
(2)	(2)	
(5)	(5)	

1	2	3	4	5	6

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Clauses of the Bill.	Corresponding Sections of the Liquor Ordinance, Cap. 71 of the Revised Edition.	Remarks.
29	51	modified.
50 (1)	52 (1)	limited to grant of new licences.
(2)	(4)	
(5)	(2)	
51	55	limited to grant of new licences and transfers.
52	54	
53	55	
54	56	
55	57	
56	58	
57	59	
58	40	
59 (1)	41 (1)	modified, consequential on definition of "native" in the Interpretation (Definition of "Native") Ordinance, 1954.
(2)	(1)	second paragraph.
(a) (b) (c)	(a) (b) (c)	redrafted.
(5)		Second paragraph of (c) modified, consequential on definition of "native" in the Interpretation (Definition of "Native") Ordinance, 1954.
(4)	41 (2)	
40	42	age raised to eighteen years.
41	43	modified, consequential on definition of "native" in the Interpretation (Definition of "Native") Ordinance, 1954.
42	44	modified. -do-
43	45	redrafted
44	46	"
45	47	"
46	48	"
47	49	redrafted.
48	50	"
49	51	modified.
50	52	"

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Classes of the Bill.	Corresponding Sections of the Liquor Ordinance, Cap. 71 of the Revised Edition.	Remarks.
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51	53	
52	54	
53	55	
54	56	
55 (1)	57 (1)	
(2)	(2) modified.	
(3)	(5)	
(4)	57 New.	
(5)	(4)	
56	58	
57	59	
58	60	
59	61	
60	62	
61	63	
62	Section 2 of Ordinance No. 52 of 1930.	
63 (1)	64	
(2)	New.	
64	65	
65 (a) (b) and (d)	66 redrafted.	
(c)	New.	
66	67 modified.	
67	Repeal.	
Schedule	Schedule amended consequentially.	

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1	2	3	4	5	6
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Reference -

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COPY
THE LIQUOR BILL, 1954.
SHOWING IN RED INK THE PRINCIPAL
VARIATIONS FROM THE REPEALED
ORDINANCE.

Enacted by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

NO. LXII of 1934

An Ordinance to Provide for the Control of the Sale of Liquor

*Section of Bill
No. 1934*

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Liquor Ordinance, Short title, 1934, and shall come into operation on the 1st day of January, 1935.

2. The provisions of this Ordinance shall not apply:— *Exemptions*

(1) Save as may be prescribed by Rules made under paragraph (c) of section 14, to any medical practitioner, apothecary, chemist or druggist who may administer or sell for purely medical purposes any bona fide medicine containing intoxicating liquor as hereinafter defined.

section 14(1)

(2) To any person selling any spirituous or distilled perfume, or paraffinary.

Provided that no person shall sell to a native, a Swahili, a Somali, a Baluchi, born in Africa, a Malay or a Comoro Islander, any perfume, scent or essence containing more than 10 per centum of alcohol except by virtue of a special permit which may be granted for each occasion by a district commissioner.

Consentual in definition of native in (1) of section 14

(3) To any person, who is not licensed for the sale of intoxicating liquor for consumption on the premises, selling methylated spirits to persons other than natives, Swahilis, Somalis, Baluchis, born in Africa, Malays, or Comoro Islanders.

section 14(1)

(4) To any auctioneer selling by auction liquor in quantities not less than such as are authorized to be sold under a wholesale licence belonging to a licensed dealer upon the licensed premises of such dealer.

section 14(2)

AN ORDINANCE TO PROVIDE FOR THE CONTROL OF THE SALE OF LIQUOR

1934

1934

enacted, passed and with assent of the Council of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:

No. LXII of 1934

An Ordinance to Provide for the Control of the Sale of Liquor

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:

1. This Ordinance may be cited as the Liquor Ordinance, 1934, and shall come into operation on the 1st day of January, 1935.

2. The provisions of this Ordinance shall not apply:

- (1) save as may be prescribed by Rules made under paragraph (c) of section 45, to any medical practitioner, apothecary, chemist, or druggist who may administer or sell for purely medical purposes any wine, or medicine containing intoxicating liquor as hereinafter defined;
- (2) to any person selling any spirituous or distilled perfume, or paraffinary;

Provided that no person shall sell to a native, a Swahili, a Somali, a Baluchi, born in Africa, a Malay or a Comoro Islander, any perfume, scent or essence containing more than 10 per centum of alcohol (except by virtue of a special permit which may be granted for each occasion by a district commissioner).

(3) to any person, who is not licensed for the sale of intoxicating liquor for consumption on the premises, selling methylated spirits to persons other than natives, Swahilis, Somalis, Baluchis born in Africa, Malaysians, or Comoro Islanders;

(4) to any auctioneer selling by auction liquor in quantities not less than such as are authorized to be sold under a wholesale licence belonging to a licensed dealer upon the licensed premises of such dealer.

*Section of 64/1
B No. of 1934*

section 2(1)

*Consented in
Lecture 9
Lecture 10 (page
& below) 1934*

section 2(1)

Lecture 2(4)

AN ORDINANCE TO PROVIDE FOR THE CONTROL OF THE SALE OF LIQUOR

No LXII

Section 7
Cap 71

No. LXII

Liquor

1984

of Sundays, Good Friday and Christmas Day, the following hours shall be the hours during which the sale of such ale, beer, porter, cider, perry and hop beer shall be authorized:—

In the Colony of Kenya

Sundays and Good Fridays ...	12 noon to 2.30 p.m.
	and
	6 p.m. to 9 p.m.
Christmas Day	12 noon to 8 p.m.
	and
	6 p.m. to 9 p.m.

In the Protectorate of Kenya

Sundays and Good Fridays ...	11 a.m. to 1.30 p.m.
	and
	6 p.m. to 9 p.m.
Christmas Day	11 a.m. to 2 p.m.
	and
	6 p.m. to 11 p.m.

(5) Save as is provided in this sub-section, a Wine Merchant's and Grocer's Licence shall authorize the sale on the premises therein specified and for consumption elsewhere than on such premises on any day between the hours of 6 a.m. and 9 p.m. of not less than one reputed quarter-pint bottle securely corked and stoppered.

Provided that, in any municipality, township or area to which the Shop Hours Ordinance, 1925, has been applied, unless the premises in respect of which such licence has been granted are used solely for the purpose of the sale of intoxicating liquor, such licence shall authorize such sale only between the hours of 6 a.m. and 6 p.m.:

Provided further that, notwithstanding the provisions of the Shop Hours Ordinance, 1925, it shall be lawful for the holder of such licence to sell such liquor on Sundays, Good Friday and Christmas Day between the hours of 9 a.m. and 12 noon.

(6) A General Retail Liquor Licence shall, save as herein provided, authorize the sale of liquor in any quantities on the premises therein specified on any day between the hours of 10 a.m. and 12 midnight for consumption on or off the premises: Provided that, in the

No. 24 of 1925.

No. 24 of 1925.

General Retail liquor licence.

Recrop
p. 106
Hans

S. 10(5)

10(5)

Section
Cap 71

1984

Liquor

No. LXII

case of Sundays, Good Friday and Christmas Day, the following hours shall be the hours during which the sale of such liquor shall be authorized:—

In the Colony of Kenya

Sundays and Good Fridays ...	12 noon to 2.30 p.m.
	and
	6 p.m. to 9 p.m.
Christmas Day	12 noon to 8 p.m.
	and
	6 p.m. to 11 p.m.

In the Protectorate of Kenya

Sundays and Good Fridays ...	11 a.m. to 1.30 p.m.
	and
	6 p.m. to 9 p.m.
Christmas Day	11 a.m. to 2 p.m.
	and
	6 p.m. to 11 p.m.

Provided further that notwithstanding the provisions of this sub-section the sale of liquor between the hours of 11 p.m. and 12 midnight shall not be authorized except for consumption at a meal to be consumed on the premises.

(7) (a) A Proprietor or Members Club Liquor Licence shall authorize the sale and supply of liquor in any quantity to the members of the club at any time for consumption on the premises in respect of which it has been issued. Provided that no place of accommodation, entertainment or refreshment shall be considered to be a club where persons other than members or the invited guests of members are allowed entry or accommodation, or where persons other than members are charged or permitted to pay for any refreshment or accommodation they may obtain therein.

(b) Every club licence shall be issued to the proprietor, secretary or manager of the club. No transfer of any such licence shall be necessary upon any change of any such proprietor, secretary or manager, but the person for the time being holding any such office shall be entitled to the privileges granted by the licence and shall be subject to the duties and liabilities imposed upon the holder thereof.

p. 10(7)
Members Club
introduced

1884

Liquor

No. LXII

*Section 4
Cp. 11
o. 11*

(11) (a) A Brewer's Liquor Licence shall authorize the holder thereof to manufacture malt liquor and to sell such liquor by wholesale only. Brewer's
Liquor Licence.

(b) The provisions of sub-section (1) of this section shall apply *mutatis mutandis* to such licence.

o. 12 (1)

(12) (a) A Steamship Liquor Licence shall authorize the holder to sell any liquor on board a steamship plying on Lake Victoria or on other inland waters. Steamship
Liquor Licence.

o. 2 (b)

(b) A Steamship Licence shall specify the steamship in respect of which it is issued and shall be valid only on that steamship.

o. 2 (c)

(c) No liquor shall be sold under such licence when the steamship in respect of which it is issued is in port, except to the passengers on such steamship and to the members of the crew of such steamship.

Cp.

o. 10 (3)

(13) (a) A Canteen Liquor Licence shall authorize the sale of liquor by retail on any premises set apart as a canteen, club, institute, mess, or other similar institution for the use of members only of His Majesty's Navy, His Majesty's Army, the Royal Air Force, the King's African Rifles or the Kenya Police Force, the Kenya Defence Force and the Kenya Naval Volunteer Reserve. Such licence shall authorize the sale of liquor to members only of the canteen, club, institute, mess or other similar institution for consumption on the licensed premises only. Canteen
Liquor Licence.

new

(b) If a district commissioner is satisfied that the profits derived by any such canteen, club, institute, mess or other similar institution from the sale of liquor are devoted solely to the benefits of the funds of such canteen, club, institute, mess or other similar institution, he may, notwithstanding the provisions of this Ordinance, issue a Canteen Liquor Licence free of charge.

o. 10 (1)

(c) A district commissioner may, without requiring the certificate of any licensing court, issue a Canteen Liquor Licence or a Camp Canteen Liquor Licence, to such person as the officer commanding the force or regiment in respect of which the licence is required shall nominate.

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1	2	3	4	5	6
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14
Railway
Restaurant
Car liquor
licence.

- (14) (a) A Railway Restaurant Car Liquor Licence shall authorize the holder to sell any liquor on a railway restaurant car.
- (b) Such licence shall be necessary in respect of each restaurant car.
- (c) No liquor shall be sold under such licence except to passengers travelling by the train to which such restaurant car is attached.

14
Camp Canteen
liquor licence.

No. 12 of 1928.

- (15) A Camp Canteen Liquor Licence shall be valid for the duration of a training camp held under the provisions of the Defence Force Ordinance, 1927, or for seven days, whichever period is the shorter, and shall authorize the sale of liquor at the camp for consumption in the camp.

14
Temporary
Extension
licence.

- (16) (a) A Temporary Extension Licence may be granted by a district commissioner to the holder of a General Retail Liquor Licence or of a Restaurant or Cafe Liquor Licence and shall authorize the sale of liquor

- (i) in respect of any day other than a Sunday or Good Friday, between the hours of 11 o'clock at night and 2 o'clock in the morning on any particular day specified therein;
- (ii) in respect of a Sunday, between the hours of 9 o'clock and 11 o'clock at night.

- (b) No such licence shall be granted in respect of a Good Friday.
- (c) For the purposes of sub-paragraph (i) of paragraph (a) of this sub-section "day" means any period of twenty-four hours ending at 6 o'clock in the morning.

14
Provision of
sanitary
arrangements
on premises.

- (17) No licence which authorizes the sale of any liquor for consumption on the premises shall be granted by any licensing court, or in the case of a temporary liquor licence by any district commissioner unless it is proved to the satisfaction of such licensing court or of such district commissioner, as the case may be, that the premises are provided with proper sanitary arrangements.

14
Sale during
11 p.m. to
12 midnight
permission not
compulsory.

- (18) Nothing in this section contained shall be construed to mean that the holder of a Restaurant or Cafe Liquor Licence, or a General Retail Liquor Licence

11
Licence
1934
71

11
new

11
new

11

12

shall be compelled to sell liquor between the hours of 11 p.m. and 12 midnight, or, in the case of the holder of an Hotel Liquor Licence, that the holder thereof shall be compelled to sell liquor to a lodger on the premises for the consumption by the guests of such lodger between such hours.

- (10) Notwithstanding the provisions of the Licensing Ordinance, 1933, or of any Ordinance amending or replacing the same, every liquor licence granted under the provisions of this Ordinance shall authorize the holder of such licence to sell, during the hours during which the sale of liquor is authorized under such licence, cigars, cigarettes, tobacco and matches.

Licensed to
include sale
of tobacco

LICENSING COURTS

11. (a) The Governor may appoint in and for any licensing area a licensing court for the consideration and determination of applications for or relating to the granting, renewal or transfer of licences for the sale of intoxicating liquor and for the manufacture of malt liquor within such licensing area.

Appointment
of licensing
courts.

(b) Every licensing court so appointed shall consist of not more than seven and not less than three persons residing in such licensing area.

Provided that where in any licensing area there is established a Municipal Council or a Municipal Board, one of the members of the licensing court for such area shall be a member of such Municipal Council or Board who shall be appointed by the Governor with the approval of such Municipal Council or Board.

12. (1) The following persons shall be disqualified for appointment, and if appointed shall not continue, as members of a licensing court:

Disqualifica-
tion of
members of
court.

- (a) The holder of any licence for the sale or manufacture of liquor.
- (b) Any person interested or concerned in any partnership or company with any holder of such licence as aforesaid or with any brewer.
- (c) Any paid officer or paid agent of any partnership or society interested in the sale, or the prevention of the sale, of intoxicating liquor.

for the provisional grant of a licence in respect of such premises; and the licensing court, if satisfied with the plans submitted to it of such premises and if satisfied that if such premises had been actually constructed in accordance with such plans it would on application have granted such a licence in respect thereof, may make a provisional grant.

(2) A provisional grant shall not be of any validity until it has been declared to be final by the district commissioner of the district wherein a licensing court is appointed to be held.

(3) Such declaration shall be made if such district commissioner is satisfied that the premises have been completed in accordance with such plans as aforesaid and that no objection can be made to the character of the holder of such provisional licence.

20. (1) If through any accident or omission anything required by this Ordinance to be done is omitted to be done or is not done within the time fixed, the Governor may order all such steps to be taken as may be necessary to rectify any such error or omission and may validate anything which may have been irregularly done in matter or form, so that the intent and purpose of this Ordinance may have effect. The Governor may, if he thinks fit, also authorize the holding of a special meeting of any licensing court.

(2) Any licence granted at any special meeting of the licensing court shall continue in force only until the close of its next ordinary meeting.

21. (1) When any licensing court deems it necessary to take evidence respecting any question to be determined by such court, such evidence shall be given on oath (which oath the person presiding is hereby authorized to administer) and shall be filed on record in the office of the district commissioner of the district wherein a licensing court is appointed to be held.

(3) If any person upon any examination on oath before any licensing court wilfully and corruptly gives false evidence such person shall be deemed to be guilty of perjury within the meaning of section 97 of the Penal Code.

Power of Governor to rectify omissions and order special meetings of licensing court.

Evidence to be given on oath.

False evidence perjury.

No. 10 of 1930.

APPLICATIONS FOR LICENCES.

22. (1) Any person who desires to obtain a licence for the sale of liquor under this Ordinance (save and except where otherwise provided for) or the removal of any licence from the licensed premises to any other premises in the same district, or the transfer of a licence by the holder thereof to any other person, shall make application in writing to the district commissioner of the district wherein a licensing court is appointed to be held before the twenty-fifth day of April or the twenty-fifth day of October, as the case may be, setting forth his full name and address, the full names of his partners (if any), the nature or description of the licence required to be obtained or transferred, as the case may be, the number or names (if any) of the house and the street or road where the business is intended to be or is carried on, or, in the case of the transfer of a licence, the name of the person to whom the same is desired to be transferred: Provided that where any application as aforesaid through inadvertence is not made in due time, the district commissioner may, if he thinks fit, accept such application for the consideration thereof by the licensing court at the next meeting or any adjournment thereof on payment of such sum, not exceeding one hundred and fifty shillings, as he may impose, and upon such terms as to notice as he may prescribe.

Every application for a licence shall bear a stamp of ten shillings affixed by the applicant and cancelled by the district commissioner.

For the purposes of this sub-section an application for a Railway Restaurant Car Liquor Licence shall be made to the District Commissioner, Nairobi, and for this purpose "the court" shall mean the court for the licensing area within which Nairobi is situate.

(2) In the case of an application for the renewal of a licence no notice need be given; but no such application shall be considered by the licensing court unless such application is made on the first day of the meeting of such court.

(3) Any person who desires to obtain a licence under the provisions of which the sale of liquor for consumption on the premises will be authorized shall, in addition to complying with the requirements of sub-section (1) of this section, at the same time submit a plan of the premises in respect of which the application is made.

When application for licence to be made.

Section 71

Section 71

21

22

23 (1)

23 (2)

Death or insolvency of applicant.

24. If an applicant, after applying for the grant or renewal or removal of a licence, dies or files his petition in bankruptcy on or before the day fixed for the consideration of his application, the licensing court may, if it thinks fit, grant a certificate for such licence to the widow, or any deceased applicant or to the executor, administrator, receiver, or trustee, as the case may be, of the estate of such applicant.

OBJECTIONS TO APPLICATION FOR LICENCES.

Who may object to issue of licence.

25. Any European member of the police force, acting on the general or special instructions of the Commissioner of Police, or any person residing in a district wherein a licence is applied for, may either individually or jointly with others object to the grant or renewal of a licence.

Objections, how to be made.

26. (1) All objections to the grant or renewal of a licence shall be made in writing to the district commissioner of the district wherein a licensing court is appointed to be held; and, where the objection is to the renewal of a licence, notice thereof stating the reason for such objection shall be given to the applicant personally or by means of a registered letter by the person or persons objecting at least ten days before the hearing of the application by the licensing court.

(2) A licensing court may hear an objector to the grant or renewal of a licence notwithstanding that such objector has not sent his objection to such district commissioner: Provided that in such cases, the court shall, if the applicant so demands, adjourn the hearing of the application for at least ten days.

(3) (a) Every applicant for a new licence shall, save as herein provided, appear in person before the licensing court and shall prove to the satisfaction of such licensing court that there is a real necessity for the provision being made for the sale of intoxicating liquor in the particular locality in which the premises, in respect of which the application is made, are situate. Such applicant may be called upon by the court to answer on oath such questions as it may think necessary: Provided that it shall be lawful for the applicant and any applicant for removal, transfer or renewal of a licence to be represented at the hearing by an advocate.

(b) The licensing court may, however, require the attendance of the person applying for the renewal of a licence or the responsible manager of the premises in respect of which the licence is applied for, and may call upon such person or manager to answer on oath such questions as the court may think necessary and relevant to the inquiry at issue.

26
27
29(1)

28(2)

Licensing Ct 71

28(1)

29(4)

29

was

was

(3) Any objector to the grant or renewal of a licence may appear personally before the licensing court or may be represented by an advocate.

(4) The council or board of any municipality may, by writing under the hand of the chairman thereof, authorize any person to appear before the licensing court for the purpose of objecting on behalf of the inhabitants to the grant or renewal of a licence within the area of such municipality.

27. The licensing court may refuse to grant or to renew a licence, or may grant or renew a licence subject to such conditions, not repugnant to the provisions of this Ordinance, as it may deem fit, and such conditions shall be embodied in the licence.

Court may refuse to grant or renew a licence.

Provided that a court shall only refuse to renew a licence when it is proved to its satisfaction that—

- (a) the holder thereof has been convicted of an offence against the provisions of this Ordinance; or
- (b) the holder thereof has had a sentence of imprisonment imposed upon him for the commission of some crime or offence (not of a political character) without the option of a fine and who has not received a full pardon therefor; or
- (c) the business is conducted in an improper manner; or
- (d) that the conditions upon which the licence (in respect of which the application for renewal has been made) was granted have not been satisfactorily fulfilled.

Provided further that the licensing court may only refuse to grant or to renew a Proprietary Club Liquor Licence or a Members' Club Liquor Licence on the following grounds—

- (a) that the proprietor, manager or secretary of the club has been convicted of an offence against this Ordinance; or
- (b) that the rules of the club do not conform to the requirements specified in sub-section (4) of section 22 of this Ordinance; or
- (c) that the rules specified in sub-section (4) of section 22 of this Ordinance are habitually contravened by the club or any member thereof.

Death or insolvency of applicant.

24. If an applicant, after applying for the grant or renewal or removal of a licence, dies or files his petition in bankruptcy on or before the day fixed for the consideration of his application, the licensing court may, if it thinks fit, grant a certificate for such licence to the widow of any deceased applicant or to the executor, administrator, receiver, or trustee, as the case may be, of the estate of such applicant.

OBJECTIONS TO APPLICATION FOR LICENCES.

Who may object to issue of licences.

25. Any European member of the police force, acting on the general or special instructions of the Commissioner of Police, or any person residing in a district wherein a licence is applied for, may either individually or jointly with others object to the grant or renewal of a licence.

Objections, how to be made.

26. (1) All objections to the grant or renewal of a licence shall be made in writing to the district commissioner of the district wherein a licensing court is appointed to be held; and, where the objection is to the removal of a licence, notice thereof stating the reason for such objection shall be given to the applicant personally or by means of a registered letter by the person or persons objecting at least ten days before the hearing of the application by the licensing court.

(2) A licensing court may hear an objector to the grant or renewal of a licence notwithstanding that such objector has not sent his objection to such district commissioner: Provided that in such case, the court shall, if the applicant so demands, adjourn the hearing of the application for at least ten days.

(3) (a) Every applicant for a new licence shall, save as herein provided, appear in person before the licensing court and shall prove to the satisfaction of such licensing court that there is a real necessity for the provision being made for the sale of intoxicating liquor in the particular locality in which the premises, in respect of which the application is made, are situated: Such applicant may be called upon by the court to answer on oath such questions as it may think necessary: Provided that it shall be lawful for the applicant and any applicant for removal, transfer or renewal of a licence to be represented at the hearing by an advocate.

(b) The licensing court may, however, require the attendance of the person applying for the removal of a licence or the responsible manager of the premises in respect of which the licence is applied for, and may call upon such person or manager to answer on oath such questions as the court may think necessary and relevant to the inquiry at issue.

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(3) Any objector to the grant or renewal of a licence may appear personally before the licensing court or may be represented by an advocate.

(4) The council or board of any municipality may, by writing under the hand of the chairman thereof, authorize any person to appear before the licensing court for the purpose of objecting on behalf of the inhabitants to the grant or renewal of a licence within the area of such municipality.

27. The licensing court may refuse to grant or to renew a licence, or may grant or renew a licence subject to such conditions, not repugnant to the provisions of this Ordinance, as it may deem fit, and such conditions shall be embodied in the licence.

Court may refuse to grant or renew a licence.

Provided that a court shall only refuse to renew a licence when it is proved to its satisfaction that—

- (a) the holder thereof has been convicted of an offence against the provisions of this Ordinance; or
- (b) the holder thereof has had a sentence of imprisonment imposed upon him for the commission of some crime or offence (not of a political character) without the option of a fine and who has not received a full pardon therefor; or
- (c) the business is conducted in an improper manner; or
- (d) that the conditions upon which the licence (in respect of which the application for renewal has been made) was granted have not been satisfactorily fulfilled.

Provided further that the licensing court may only refuse to grant or to renew a Proprietary Club Liquor Licence or a Members' Club Liquor Licence on the following grounds—

- (a) that the proprietor, manager or secretary of the club has been convicted of an offence against this Ordinance; or
- (b) that the rules of the club do not conform to the requirements specified in sub-section (4) of section 23 of this Ordinance; or
- (c) that the rates specified in sub-section (4) of section 23 of this Ordinance are habitually contravened by the club or any member thereof.

Death or insolvency of applicant.

24. If an applicant, after applying for the grant or renewal or removal of a licence, dies or files his petition in bankruptcy on or before the day fixed for the consideration of his application, the licensing court may, if it thinks fit, grant a certificate for such licence to the widow of any deceased applicant or to the executor, administrator, receiver, or trustee, as the case may be, of the estate of such applicant.

OBJECTIONS TO APPLICATION FOR LICENCES

Who may object to issue of licences.

25. Any European member of the police force, acting on the general or special instructions of the Commissioner of Police, or any person residing in a district wherein a licence is applied for, may either individually or jointly with others object to the grant or renewal of a licence.

Objections how to be made.

26. (1) All objections to the grant or renewal of a licence shall be made in writing to the district commissioner of the district wherein a licensing court is appointed to be held; and, where the objection is to the renewal of a licence, notice thereof stating the reason for such objection shall be given to the applicant personally or by means of a registered letter by the person or persons objecting at least ten days before the hearing of the application by the licensing court.

(2) A licensing court may hear an objector to the grant or renewal of a licence notwithstanding that such objector has not sent his objection to such district commissioner: Provided that in such case, the court shall, if the applicant so demands, adjourn the hearing of the application for at least ten days.

(3) (a) Every applicant for a new licence shall, save as herein provided, appear in person before the licensing court and shall prove to the satisfaction of such licensing court that there is a real necessity for the provision being made for the sale of intoxicating liquor in the particular locality in which the premises, in respect of which the application is made, are situated. Such applicant may be called upon by the court to answer on oath such questions as it may think necessary: Provided that it shall be lawful for the applicant and any applicant for removal, transfer or renewal of a licence to be represented at the hearing by an advocate.

(b) The licensing court may, however, require the attendance of the person applying for the renewal of a licence or the responsible manager of the premises in respect of which the licence is applied for, and may call upon such person or manager to answer on oath such questions as the court may think necessary and relevant to the inquiry at issue.

(3) Any objector to the grant or renewal of a licence may appear personally before the licensing court or may be represented by an advocate.

(4) The council or board of any municipality may, by writing under the hand of the chairman thereof, authorize any person to appear before the licensing court for the purpose of objecting on behalf of the inhabitants to the grant or renewal of a licence within the area of such municipality.

27. The licensing court may refuse to grant or to renew a licence, or may grant or renew a licence subject to such conditions, not repugnant to the provisions of this Ordinance, as it may deem fit, and such conditions shall be embodied in the licence.

Court may refuse to grant or renew a licence.

Provided that a court shall only refuse to renew a licence when it is proved to its satisfaction that—

- (a) the holder thereof has been convicted of an offence against the provisions of this Ordinance; or
- (b) the holder thereof has had a sentence of imprisonment imposed upon him for the commission of some crime or offence (not of a political character) without the option of a fine and who has not received a full pardon therefor; or
- (c) the business is conducted in an improper manner; or
- (d) that the conditions upon which the licence (in respect of which the application for renewal has been made) was granted have not been satisfactorily fulfilled.

Provided further that the licensing court may only refuse to grant or to renew a Proprietary Club Liquor Licence or a Members' Club Liquor Licence on the following grounds—

- (a) that the proprietor, manager or secretary of the club has been convicted of an offence against this Ordinance; or
- (b) that the rules of the club do not conform to the requirements specified in sub-section (4) of section 23 of this Ordinance; or
- (c) that the rules specified in sub-section (4) of section 23 of this Ordinance are habitually contravened by the club or any member thereof.

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And when there is no objection.

28. (1) The licensing court may of its own motion take notice of any matter or thing which, in the opinion of the members thereof, would constitute an objection to the grant or to the renewal, transfer or removal of a licence, notwithstanding that no objection has been made thereto by any person.

(2) In any case when the application is for the renewal, transfer or removal of a licence, the court shall inform the applicant of the objection, and shall if the applicant so requests adjourn the further consideration of the application for any period of not less than seven days, to enable the person affected by such objection to have the opportunity of replying thereto.

(3) The court shall after such adjournment give notice in writing, signed by the president, to the person affected of the cause of objection and of the day on which the adjourned application will be considered.

Extension of existing licences when renewal disallowed.

29. If the renewal of a licence held by any person is refused by the licensing court, and if such person has not during the preceding twelve months been convicted of any offence against this or any other law relating to the sale of intoxicating liquors, he shall, upon payment of a proportionate part of the cost of a licence such as that held by him, be entitled to obtain a licence for such period, not being less than one month, as the licensing court shall determine for the purpose of disposing of the liquor then on the premises. Such period shall commence from the day after the last day of the sitting of the court by which the renewal of his licence had been refused or from the termination of his existing licence, whichever day is the later.

CASES IN WHICH LICENCES CANNOT BE GRANTED OR TRANSFERRED.

When grant shall be disallowed.

30. It shall not be competent for the licensing court to grant a new licence when any of the following objections are proved to its satisfaction:—

- (1) That the applicant is of bad fame or bad character or of drunken habits, or has previously forfeited a licence or has been convicted at any time previous to his application of selling liquor without a licence;
- (2) That the number of premises already licensed is sufficient for the requirements of the neighbourhood.

(3) That the premises in respect of which the application is made, are out of repair, or are not kept in a clean and wholesome condition.

31. It shall not be competent for the licensing court to grant a new licence or the transfer of a licence to any person—

- (1) who, in this Colony or elsewhere, has had a sentence of imprisonment imposed upon him for the commission of some crime or offence (not of a political character) without the option of a fine and who has not received a full pardon therefor;
- (2) who, in the case of a retail licence, is not residing in this Colony;
- (3) who is under the age of twenty-one years;
- (4) who is a native, a Swahili, a Somali, a Baluchi born in Africa, or Malagasy, or a Comoro Islander.

Persons to whom a licence shall not be granted.

The premises in respect of which a licence is issued or transferred to any person disqualified under this section shall be closed for the sale of liquor by order of the district commissioner of the district in which a licensing court is appointed to be held for the licensing area in which the premises are situate, until such time as the licence is transferred.

TRANSFER AND REMOVAL OF LICENCE.

32. The holder of a licence (other than a club licence) who, during the currency thereof, sells or disposes of his business or the house or premises in respect of which such licence was granted, may make application to the district commissioner of the district in which a licensing court is appointed to be held for the licensing area in which such premises are situate, for a temporary transfer of such licence to the purchaser of such business or to the purchaser or lessee of such premises, as the case may be; and such district commissioner may, if he thinks fit and upon payment by the applicant of the sum of thirty shillings, grant a temporary transfer of such licence accordingly.

Transfer of licence.

33. The holder of any licence, who desires to remove his licence from the licensed premises to any other premises in the same licensing area, may make application to the district commissioner of the district in which a licensing court is appointed to be held for the licensing area in which the premises to which it is proposed to remove the licence are

Removal of licensed premises.

situate for permission to remove such licence; and such district commissioner, if satisfied that to wait for the next meeting of the licensing court would subject such holder to serious loss or inconvenience and if he thinks fit, after hearing any objections to such removal, may, upon payment by the applicant of the sum of thirty shillings, authorize such removal after not less than thirty days' notice of such application has been affixed in a conspicuous place on the outside of the premises to which it is proposed to remove the licence, and at such district commissioner's office.

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Fresh application to be made.

34. Any person to whom a licence may be temporarily transferred and any person who may be authorized to remove his licence to other premises and any person to whom a provisional licence has been granted shall, at the next meeting of the licensing court, apply for a licence as if he were not a licensed person.

37
Where transfer or removal not ratified.

35. A licensing court shall not be bound to ratify a temporary transfer or removal sanctioned by a district commissioner; and should it refuse to do so at its next meeting after considering the application made in respect thereof, such licence shall, as to the person to whom the same was originally granted or in respect of the premises originally licensed, be considered to be in the same position as if no such transfer or removal has taken place; and an application for the renewal of the licence by the transferee shall at the request of the transferor be deemed and taken to be an application by him for such renewal.

38
Death of holder of licence.

36. In the event of the death of the holder of any licence, the widow (if any) or the executor or administrator of the deceased person, or any person approved by a district commissioner, and in case of bankruptcy the trustee or receiver of the estate of such bankrupt, may carry on the business until the next meeting of the Licensing Court either personally or by an agent, approved of in writing by a district commissioner, without any formal transfer of the licence.

39
Power and duties of representative of deceased.

37. Any person to whom a licence may be temporarily transferred, or who may be carrying on or conducting the business of licensed premises as the widow, or executor or administrator of the estate of any deceased person or as the person approved by such district commissioner or as the trustee

or receiver of any estate of any bankrupt or as any approved agent of any such widow, executor, administrator, trustee or other person shall possess all the rights and be subject and liable to all the duties, obligations and penalties of the original holder of the licence.

OFFENCES.

38. (1) No person who is not licensed shall have any Sign board. words or letters on his premises importing that he is licensed, and no licensed person shall have any words or letters importing that he is licensed in any way other than that in which he is duly licensed.

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(2) Any person guilty of contravention of this section shall be liable to a fine of seventy-five pounds, and in default of payment to imprisonment for a term not exceeding three months.

41
39. (1) No person shall sell, barter, give or otherwise supply to any native, Swahili, Somali, Baluchi born in Africa, Malagasy, or Comoro Islander, any intoxicating liquor: Provided that liquor may be supplied to a native, a Swahili, a Somali, a Baluchi born in Africa, a Malagasy, or a Comoro Islander, for medicinal purposes (save as may be prescribed by Rules made under paragraph (c) of section 65 of the Ordinance) or sacramental use, and in such case the burden of proof shall be upon the person who supplied the liquor to show that it was required for such purpose.

Native not to be supplied.

(2) Any person contravening the provisions of this section shall on conviction be liable—

- (a) For a first offence to a fine not exceeding one hundred and fifty pounds, and in default of payment to imprisonment for a term not exceeding six months.
- (b) For a second offence to a fine of not less than seventy-five pounds, but not exceeding two hundred pounds, and in default of payment to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment.
- (c) For a third or any subsequent offence to imprisonment for a period of not less than two years and not exceeding three years, and in addition to such imprisonment at the discretion of the court to a fine not exceeding twelve hundred pounds, and in default of payment to imprisonment for a further period not exceeding two years.

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(3) In any summons or charge for an offence against the provisions of this section, it shall not be necessary to set out the names of the natives, Swahilis, Somalis, Baluchis born in Africa, Malagasies, or Comoro Islanders, to whom intoxicating liquor is alleged to have been sold, bartered, given or otherwise supplied; but it shall be sufficient to allege that such sale, barter, gift or supply was effected to natives, Swahilis, Somalis, Baluchis born in Africa, Malagasies, or Comoro Islanders, as the case may be. Provided that nothing in this sub-section contained shall render it unnecessary to set out accurately in such charge, all other material particulars of the charge.

(4) Any holder of a licence who is convicted of contravening the provisions of sub-section (1) of this section shall, in addition to any other penalty, forfeit his licence, and in such case no licence shall at any time thereafter be granted to such person unless and until he shall have received a free pardon for such conviction.

40. (1) No holder of any liquor licence shall employ a person under the age of eighteen or a person convicted of any offence under this Ordinance to sell intoxicating liquor.

(2) Any person knowingly contravening the provisions of this section shall be liable to a fine not exceeding seventy-five pounds, and in default of payment to imprisonment for a period not exceeding three months.

41. (1) No habitual drunkard or native, Swahili, Somali, Baluchi born in Africa, Malagasy, or Comoro Islander shall obtain by purchase or barter or be in possession of any intoxicating liquor.

(2) Any person contravening the provisions of this section shall on conviction be liable to imprisonment for a period not exceeding six months.

42. If, in any proceedings under sections 39, 40 or 41 of this Ordinance, there shall be any question as to whether any person is or is not a native, or a Swahili, or a Somali, or a Baluchi born in Africa, or a Malagasy, or a Comoro Islander, the onus shall be upon the accused to show that he is not a native, or a Swahili, or a Somali, or a Baluchi born in Africa, or a Malagasy, or a Comoro Islander, as the case may be.

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Persons prohibited from selling liquor.

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Habitual drunkard or native not to obtain liquor.

Penalty.

Onus of proof as to whether a person is a native or not.

44

Liquor
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43. The holder of any licence who is convicted of any of the following acts or offences shall be liable in respect of each act or offence to a fine not exceeding fifteen pounds, and in default of payment to imprisonment for a period not exceeding one month:

(1) Permitting drunkenness or any riotous or quarrelsome conduct to take place upon his premises.

(2) Selling liquor to any person already in a state of intoxication, or, by any means, encouraging or inducing any person to drink liquor.

(3) Knowingly selling liquor to any police officer or below the rank of assistant inspector during any time appointed for such police officer to be on duty, unless such police officer produces the written permission of his superior officer, or knowingly harbouring or suffering to remain on his premises any such police officer during such time as aforesaid except for the purpose of keeping or restoring order or in the execution of his duty.

(4) Permitting his premises to be used as a brothel or the habitual resort or place of meeting of reputed prostitutes.

(5) Keeping his licensed premises open for the sale of liquor or selling or exposing any liquor for sale during any time when he is not authorized by his licence to sell; or allowing any liquor purchased before the hour of closing to be consumed on such premises after such closing hours.

In the event of a second or subsequent conviction, every such holder shall be liable to a fine not exceeding thirty pounds, and in default of payment to imprisonment for a period not exceeding two months.

44. Any person who, contrary to the provisions of this Ordinance, sells or deals in or disposes of any intoxicating liquor without a licence, or sells or offers or exposes for sale any such liquor at any place where he is not authorized by his licence so to sell, or who sells or deals in or disposes of any intoxicating liquor in any manner other than is provided for in the conditions of his licence shall on conviction be liable to the penalties provided in sub-section (2) of section 39 of this Ordinance, and all liquor found on the premises may be forfeited.

Offences by licence holder

Trading with-out a licence.

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situatē for permission to remove such licence; and such district commissioner, if satisfied that to wait for the next meeting of the licensing court would subject such holder to serious loss or inconvenience and if he thinks fit, after hearing any objections to such removal, may, upon payment by the applicant of the sum of thirty shillings, authorize such removal after not less than thirty days' notice of such application has been affixed in a conspicuous place on the outside of the premises to which it is proposed to remove the licence, and at such district commissioner's office.

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Fresh application to be made.

34. Any person to whom a licence may be temporarily transferred and any person who may be authorized to remove his licence to other premises, and any person to whom a provisional licence has been granted shall, at the next meeting of the licensing court, apply for a licence as if he were not a licensed person.

37
Where transfer or removal not notified.

35. A licensing court shall not be bound to ratify a temporary transfer or removal sanctioned by a district commissioner; and should it refuse to do so at its next meeting after considering the application made in respect thereof, such licence shall, as to the person to whom the same was originally granted or in respect of the premises originally licensed, be considered to be in the same position as if no such transfer or removal has taken place; and an application for the removal of the licence by the transferee shall at the request of the transferor be deemed and taken to be an application by him for such removal.

38
Death of holder of licence.

36. In the event of the death of the holder of any licence, the widow (if any) or the executor or administrator of the deceased person, or any person approved by a district commissioner, and in case of bankruptcy the trustee or receiver of the estate of such bankrupt, may carry on the business until the next meeting of the Licensing Court either personally or by an agent, approved of in writing by a district commissioner, without any formal transfer of the licence.

39
Power and duties of representative of deceased.

37. Any person to whom a licence may be temporarily transferred, or who may be carrying on or conducting the business of licensed premises as the widow or executor or administrator of the estate of any deceased person or as the person approved by such district commissioner or as the trustee

or receiver of any estate of any bankrupt or as any approved agent of any such widow, executor, administrator, trustee, or other person shall possess all the rights and be subject and liable to all the duties, obligations and penalties of the original holder of the licence.

Offences.

38. (1) No person who is not licensed shall have any words or letters on his premises importing that he is licensed, and no licensed person shall have any words or letters importing that he is licensed in any way other than that in which he is duly licensed.

(2) Any person guilty of a contravention of this section shall be liable to a fine of seventy-five pounds, and in default of payment to imprisonment for a term not exceeding three months.

39. (1) No person shall sell, barter, give or otherwise supply to any native, Swahili, Somali, Baluchi born in Africa, Malagasy, or Comoro Islander, any intoxicating liquor. Provided that liquor may be supplied to a native, a Swahili, a Somali, a Baluchi born in Africa, a Malagasy, or a Comoro Islander for medicinal purposes (as may be prescribed by Rules made under paragraph (c) of section 65 of the Ordinance) or sacramental use; and in such case the burden of proof shall be upon the person who supplied the liquor to show that it was required for such purpose.

Native not to be supplied.

(2) Any person contravening the provisions of this section shall on conviction be liable:

(a) For a first offence to a fine not exceeding one hundred and fifty pounds, and in default of payment to imprisonment for a term not exceeding six months.

(b) For a second offence to a fine of not less than seventy-five pounds, but not exceeding two hundred pounds, and in default of payment to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment.

(c) For a third or any subsequent offence to imprisonment for a period of not less than two years and not exceeding three years, and in addition to such imprisonment at the discretion of the court to a fine not exceeding twelve hundred pounds, and in default of payment to imprisonment for a further period not exceeding two years.

(3) In any summons or charge for an offence against the provisions of this section, it shall not be necessary to set out the names of the natives, Swahilis, Somalis, Baluchis born in Africa, Malagasies, or Comoro Islanders, to whom intoxicating liquor is alleged to have been sold, bartered, given, or otherwise supplied; but it shall be sufficient to allege that such sale, barter, gift or supply was effected to natives, Swahilis, Somalis, Baluchis born in Africa, Malagasies, or Comoro Islanders, as the case may be: Provided that nothing in this sub-section contained shall render it unnecessary to set out accurately in such charge all other material particulars of the charge.

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(4) Any holder of a licence who is convicted of contravening the provisions of sub-section (1) of this section shall, in addition to any other penalty, forfeit his licence, and in such case no licence shall at any time thereafter be granted to such person unless and until he shall have received a free pardon for such conviction.

42
Persons prohibited from selling liquor.

40. (1) No holder of any liquor licence shall employ a person under the age of eighteen or a person convicted of any offence under this Ordinance to sell intoxicating liquor.

(2) Any person knowingly contravening the provisions of this section shall be liable to a fine not exceeding seventy-five pounds, and in default of payment to imprisonment for a period not exceeding three months.

43
Habitual drunkard or native not to obtain liquor.

41. (1) No habitual drunkard or native, Swahili, Somali, Baluchi born in Africa, Malagasy, or Comoro Islander shall obtain by purchase or barter or be in possession of any intoxicating liquor.

Penalty.

(2) Any person contravening the provisions of this section shall on conviction be liable to imprisonment for a period not exceeding six months.

44
Onus of proof as to whether a person is a native or not.

42. If, in any proceedings under sections 39, 40 or 41 of this Ordinance, there shall be any question as to whether any person is or is not a native, or a Swahili, or a Somali, or a Baluchi born in Africa, or a Malagasy, or a Comoro Islander, the onus shall be upon the accused to show that he is not a native, or a Swahili, or a Somali, or a Baluchi born in Africa, or a Malagasy, or a Comoro Islander, as the case may be.

43. The holder of any licence who is convicted of any of the following acts or offences shall be liable in respect of each act or offence to a fine not exceeding fifteen pounds, and in default of payment to imprisonment for a period not exceeding one month:

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- (1) Permitting drunkenness or any riotous or quarrelsome conduct to take place upon his premises.
 - (2) Selling liquor to any person already in a state of intoxication, or, by any means, encouraging or inducing any person to drink liquor.
 - (3) Knowingly selling liquor to any police officer or below the rank of assistant inspector during any time appointed for such police officer to be on duty, unless such police officer produces the written permission of his superior officer, or knowingly harbouring or suffering to remain on his premises any such police officer during such time as aforesaid except for the purpose of keeping or restoring order or in the execution of his duty.
 - (4) Permitting his premises to be used as a brothel or the habitual resort or place of meeting of reputed prostitutes.
 - (5) Keeping his licensed premises open for the sale of liquor or selling or exposing any liquor for sale during any time when he is not authorized by his licence to sell; or allowing any liquors purchased before the hour of closing to be consumed on such premises after such closing hours.

In the event of a second or subsequent conviction, every such holder shall be liable to a fine not exceeding thirty pounds, and in default of payment to imprisonment for a period not exceeding two months.

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44. Any person who, contrary to the provisions of this Ordinance, sells or deals in or disposes of any intoxicating liquor without a licence, or sells or offers or exposes for sale any such liquor at any place where he is not authorized by his licence so to sell, or who sells or deals in or disposes of any intoxicating liquor in any manner other than is provided for in the conditions of his licence shall on conviction be liable to the penalties provided in sub-section (2) of section 39 of this Ordinance, and all liquor found on the premises may be forfeited.

Offences by licence holder

Trading without a licence.

Club licence; abuse of

45. Any holder of a Club Liquor Licence who sells or allows to be sold liquor to any person not being a member of such club, shall be liable for each offence to a fine not exceeding one hundred and fifty pounds, and in default of payment to imprisonment for a period not exceeding six months.

Offences by retail licence holders rendering licence holder liable to forfeiture and penalties

46. The holder of any retail liquor licence shall be liable to forfeit such licence in addition to any other penalty by this Ordinance provided:—

- (1) If he permits any other person to manage, superintend or conduct the business of the licensed premises during his absence for a longer period than one month without the consent in writing of the district commissioner of the district in which the licensing court is appointed to be held for the licensing area in which the premises are situate.

Any person who at any time is lawfully managing, superintending or conducting the business of the holder of any licence shall be subject and liable to the same duties, obligations and penalties as such holder: Provided that nothing herein contained shall be taken to relieve the holder of any duties, obligations or penalties to which he may by law be subject or liable.

- (2) If he, whether he is present in such premises or not, permits any unlicensed person to be in effect the owner or part owner of or interested in the business of the licensed premises except with the consent of such district commissioner.
- (3) If he is convicted of any offence under this Ordinance and a previous conviction within the preceding twelve months of the same or any other offence under this Ordinance or three previous convictions within the preceding five years is or are proved.
- (4) If he is twice convicted within the year of selling, offering or keeping for sale any adulterated liquor.

Evidence of sale of liquor

47. (1) In any proceeding relating to any offence under this Ordinance, it shall not be necessary to show that any money actually passed or that any liquor was actually consumed if the court hearing the case is satisfied that a transaction in the nature of a sale actually took place or that any consumption was about to take place.

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(2) (a). Proof of consumption or intended consumption of liquor on licensed premises by some person other than the occupier or member of his family or servant in such premises shall be evidence that the liquor was sold by or on behalf of the holder of such licence to the person consuming or about to consume such liquor.

(b) If any vendor of non-intoxicating beverages not being duly licensed shall supply intoxicating liquor to mix or be taken with such beverage, he shall be deemed to have sold such intoxicating liquor.

48. In any proceeding against any person for selling or allowing to be sold any liquor without a licence, such person shall be deemed to be unlicensed unless he produces his licence or gives other satisfactory proof of his being licensed. The fact of any person not holding a licence having any sign-board or notice importing that he is licensed upon or near his premises or having a house or premises fitted with a bar or other place containing bottles, casks, or vessels so displayed as to induce a reasonable belief that liquor is sold or served therein or having liquor concealed or more liquor than is reasonably required for the person residing on such premises shall be deemed to be prima facie evidence of the unlawful sale of liquor by such person.

Onus of proof

49. If any person, other than the licence-holder, a member of his family, his agent or servant, or a person lodging in the licensed premises, is found in any bar on such premises during the hours in which the sale or disposal of liquor to the public is prohibited it shall be taken to be prima facie evidence of a sale of liquor during such hours, and the licence-holder on whose premises any such person is found during such hours shall be liable to a fine not exceeding fifteen pounds or in default of payment to imprisonment for a period not exceeding one month: Provided that nothing in this section contained shall apply in the case of persons passing through any bar in any licensed premises for the sole purpose of obtaining access to any other part of such premises.

Persons on premises of licence holder during prohibited hours

50. Any person convicted of contravening any of the provisions of this Ordinance, for or in respect of which no penalty is specially provided, shall be liable to a fine not exceeding thirty pounds, and in default of payment to imprisonment for any period not exceeding three months, and when a penalty has been provided for any offence without any period

Offences for which no penalty provided

of imprisonment in default of payment thereof, then the person convicted of such offence shall be liable—

If the penalty does not exceed fifteen pounds, to imprisonment for a period not exceeding two months.

If the penalty exceeds fifteen pounds and does not exceed fifty pounds, to imprisonment for a period not exceeding four months.

If the penalty exceeds fifty pounds, to imprisonment for a term not exceeding six months.

Convictions against holder to be endorsed on licence.

51. (1) Every conviction against a licence-holder shall be endorsed by the magistrate on the licence of the convicted person and every application to the licensing court for a renewal of the licence shall, if required by the licensing court, be accompanied by the licence.

(2) Any licensed person convicted of an offence under this Ordinance shall, on demand being made by the court convicting him, produce his licence. Any such person refusing so to produce his licence shall be liable to a fine not exceeding fifteen pounds.

Notice of conviction to be served on the owner of premises.

52. (1) When any tenant of any licensed premises is convicted of an offence against this Ordinance it shall be the duty of the magistrate convicting such tenant to serve a notice of such conviction on the owner of the premises.

(2) Where any order of a court declaring any licensed premises to be disqualified from receiving a licence for any period has been made, the court shall, where the owner is not the occupier, cause such order to be served on the owner of such premises, with the addition of a statement that the court will sit at a time and place therein specified at which the owner may appear and appeal against such order on all or any of the following grounds but on no other grounds—

(a) that notice of a prior offence, which on repetition renders the premises liable to be disqualified from receiving a licence for any period, was not served on the owner as required by this section;

(b) that the tenant by whom the offence was committed held his tenancy under a contract and that the owner could not legally have evicted the tenant in the interval between the commission of the offence in respect of which the disqualifying order was made and the receipt by him of the notice of the immediately preceding offence which on repetition renders

the premises liable to be disqualified from receiving a licence for any period; or

(c) that the offence in respect of which the disqualifying order was made occurred so soon after the receipt of such last-mentioned notice, that the owner, notwithstanding that he had legal power to evict the tenant, could not with reasonable diligence have exercised that power in the interval which occurred between the said notice and the second offence.

(3) If the owner appears at the time and place specified, or at the place to which the court may be adjourned for the purpose, and satisfies the court that he is entitled to have the order cancelled on any of the grounds aforesaid, the court shall thereupon direct such order to be cancelled and the same shall be void.

53. (1) Any licensed person may refuse to admit to and may turn out of the premises in respect of which his licence is granted any person who is drunken, violent, quarrelsome, or disorderly, or whose presence on his premises would subject him to a fine or penalty under this Ordinance.

Power to expel drunkards from licensed premises.

(2) Any such person who, upon being requested in pursuance of this section by such licensed person or his agent or servant or any police officer to quit such premises, refuses or fails so to do, shall be liable to a fine not exceeding seven pounds ten shillings.

(3) All police officers are required on the demand of such licensed person, agent or servant, to expel or assist in expelling every such person from such premises and may use such force as may be required for the purpose.

54. Any person who knowingly supplies liquor to a person under the apparent age of eighteen years, except for medicinal purposes or sacramental use, or to a habitual drunkard, shall be liable on conviction in respect of each such act to a fine not exceeding fifteen pounds and in default of payment to imprisonment for a period not exceeding one month.

Penalty for supplying liquor to habitual drunkard or person under 18 years.

POWERS AND DUTIES OF DISTRICT COMMISSIONERS AND POLICE OFFICERS.

55. (1) It shall be the duty of the officer in charge of police in every district to report to the district commissioner of the district in which a licensing court is appointed to be held for any licensing area, any licensed premises which are

Report by Chief Officer of Police.

out of repair, or have not reasonable accommodation or proper or sufficient sanitary or drainage requirements, and any case in which the holder of a licence is of drunken habits or keeps a disorderly house.

(2) Any European police officer, acting on the instructions of his superior officer, may enter any licensed premises, other than a proprietary or a members' club, during the hours such premises are open and inspect and examine every room and part thereof for the purpose of the report in the last subsection mentioned.

(3) Any European police officer may enter any licensed premises, other than a proprietary or members' club, at any time when he has reasonable grounds for believing that liquor is being sold on such premises contrary to the provisions of this Ordinance.

(4) In the case of a proprietary or members' club, the powers of entry and inspection conferred by sub-sections (2) and (3) of this section and by section 56 of this Ordinance may be exercised by a European police officer acting on the written instructions of the Commissioner of Police.

(5) Any person resisting or obstructing a police officer in the execution of his duty as aforesaid, shall be liable on conviction to a fine not exceeding seventy-five pounds and in default of payment to imprisonment for a period not exceeding three months.

59. (1) A licence authorizing the sale of intoxicating liquor shall be displayed in a prominent place on the premises where such liquor is sold, and subject to the provisions of subsection (2) of section 55, it shall be lawful for any magistrate or European police officer to enter in or upon such premises to inspect such licence.

(2) Any holder of a licence failing so to display such licence or refusing permission or failing to allow such magistrate or European police officer to inspect such licence shall be liable to a fine not exceeding fifteen pounds and in default of payment to imprisonment for a period not exceeding one month, or to such imprisonment without the option of a fine.

57. (1) Any person found by a police officer to be drunk and incapable, or drunk and disorderly in or near a street, road, or other public thoroughfare, or in a public-house, shop, warehouse, hotel, or any other public place, may be arrested without warrant and brought without any unnecessary delay before a magistrate.

Arrest of intoxicated persons.

Section 6-p. 71

(2) Any such person shall on conviction be liable to a fine not exceeding ninety shillings and in default of payment to imprisonment for a period not exceeding seven days, and for a second or subsequent conviction he shall be liable to a fine not exceeding fifteen pounds and in default to imprisonment for a period not exceeding one month.

58. (1) It shall be lawful for any police officer, having a special written authority from a magistrate, at all reasonable hours to enter any unlicensed premises or any wagon, cart, or other vehicle in which he has reason to suspect that any intoxicating liquor is sold or kept for sale, and search such premises, wagon, cart, or other vehicle.

(2) Any liquor found in the course of such search may be seized and removed, and may be declared forfeited by any court on conviction of the owner or person found in possession thereof. Provided that, when there is any danger that the delay occasioned by obtaining such written authority will defeat the objects of this section, any police officer may exercise the powers hereby conferred without any written authority, but he shall as soon as possible report the action he has taken to a magistrate.

59. (1) Any police officer may demand the name and address of any person found on premises in which he seizes or from which he removes any liquor under the provisions of this Ordinance, and if such person refuses to comply with such demand or gives a name or address which the police officer demanding the same has reasonable grounds to believe to be false, he may arrest such person without warrant, and take him as soon as possible before a magistrate.

(2) Any such person who refuses to give his name or address when so demanded as aforesaid or gives a false name or address shall on conviction be liable to a fine not exceeding seven pounds ten shillings.

60. Any police officer may arrest without warrant any person whom he has reasonable grounds to believe has committed an offence under sections 59, 41 or 44 of this Ordinance, and shall take such person before a magistrate as soon as possible.

61. The conviction of a habitual drunkard shall be forthwith reported by the convicting magistrate to the Commissioner of Police, who shall inform all licensed persons of such conviction.

Inspection of unlicensed premises by police.

Police may demand the name and address of person on premises.

Police may arrest without warrant in certain cases.

Conviction of habitual drunkard to be reported to Commissioner of Police for information of licensed persons.

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Debit not recoverable in respect of sale of liquor for consumption on premises.

63. No action shall be maintainable to recover any debt alleged to be due in respect of the sale or supply of any intoxicating liquor which was delivered for consumption on the premises where sold or supplied unless the person to whom the same was sold or supplied was at the time of such sale or supply a lodger on such premises.

MISCELLANEOUS.

64. (1) Every licence granted on a certificate from the licensing court may be issued for six or twelve months, but shall expire on the thirty-first day of December of the year in which it was issued. Provided that in every case in which an application for the renewal of a licence is made, such licence shall continue in force until the conclusion of the meeting of the licensing court at which such application is made.

(2) Where the fee payable for a licence for twelve months is thirty pounds or over such fee may be paid in two equal instalments.

Provided that if the second instalment is not paid by the thirtieth day of June in the year in which the licence was issued such licence shall be deemed to have lapsed with effect from that date.

64. Any master or other person employing workmen, servants, or labourers, who pays or causes any payment to be made to any such workman, servant or labourer in the bar of any premises licensed for the sale of liquors, shall for every such offence be liable to a fine not exceeding fifteen pounds. Provided that nothing herein contained shall extend to any holder of any liquor licence who pays upon his own licensed premises the workmen, servants, or labourers employed by him in connection with his licensed premises.

65. The Governor may make Rules—

- (a) regulating the proceedings and meetings of licensing courts;
- (b) prescribing the forms of licences, notices or documents for use under the provisions of this Ordinance;
- (c) prohibiting, restricting, or controlling, the sale of intoxicating medicines; and
- (d) generally for the better carrying out of the provisions of this Ordinance.

66. The costs incurred by the members of any licensing court in connection with legal proceedings instituted against them in their official capacity, shall, unless the court before

Licence to expire on the thirty-first day of December.

Prohibition of payment of wages on licensed premises.

Power to make Rules.

Costs incurred in legal proceedings.

which the proceedings are taken order the costs to be borne by the opposite party or by the said members personally, be paid to them by the Treasurer out of the revenues of the Colony.

67. The Liquor Ordinance (Chapter 71 of the Revised Edition) as amended by the Liquor (Amendment) Ordinance, 1930, and the Liquor (Amendment) Ordinance, 1931, is hereby repealed.

SCHEDULE

(1) The following fees are payable for or in respect of Liquor Licences granted, renewed or transferred:

	For twelve months	For six months
(a) Wholesale Liquor Licence	25 0	14 0
(b) Hotel Liquor Licence	20 0	11 10
(c) Restaurant or Café Liquor Licence	30 0	16 10
(d) Malt Liquor Licence	7 10	4 10
(e) Wine Merchants' or Grocers' Liquor Licence	30 0	16 10
(f) General Retail Liquor Licence—		
(i) In respect of premises situate in or within three miles of the boundaries of Nairobi Municipality or Mombasa Municipality	60 0	31 10
(ii) In respect of premises situate in or within three miles of the boundaries of Nakuru Municipality, Eldoret Municipality, Kitale Township or Kisumu Township or such other townships as the Governor may by proclamation declare	45 0	23 10
(iii) In respect of premises situate elsewhere	35 0	18 10
(g) Dispensary Club Liquor Licence	45 0	24 0
(h) Members' Club Liquor Licence—		
(i) In respect of clubs situate in or within three miles of the boundaries of Nairobi Municipality or Mombasa Municipality	3 0	—
(ii) In respect of clubs situate elsewhere	1 10	—
(i) Railway Station Liquor Licence	15 0	9 0
(j) Theatre Liquor Licence	30 0	15 10
(k) Brewers' Liquor Licence	30 0	16 10
(l) Steamship Liquor Licence	10 0	6 00
(m) Canteen Liquor Licence	7 10	4 10
(n) Railway Restaurant Car Liquor Licence	15 0	9 0
(o) Temporary Liquor Licence	1 10	day
(p) Temporary Extension Licence—		
(i) In respect of premises situate in or within three miles of the boundaries of Nairobi Municipality or Mombasa Municipality	5s. 15 per hour	
(ii) In respect of premises situate elsewhere	5s. 10 per hour	
(q) Camp Canteen Licence	Sh. 10 each	

Repeal No. 63 of 1930. No. 39 of 1931.

Liquor cap 71 67

Repeal

Schedule

2:29 Ord. No. 57/1930

Liquor cap 71

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Colony and Protectorate of Kenya.

IN THE TWENTY-FIFTH YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE V.
JOSEPH ALOYSIUS BYRNE, G.O.M.G., K.B.E., C.B.,
Governor.

Assented to in His Majesty's
 name this 14th day of
 December, 1934.

J. BYRNE.

Governor.

**AN ORDINANCE TO PROVIDE FOR THE
 CONTROL OF THE SALE OF LIQUOR**

No. LXIII

Liquor

1934

(2) The holder of a General Retail Liquor Licence may hold an Hotel Liquor Licence or Café Liquor Licence in respect of the same premises for the same period without the payment of any fee in addition to the fee paid by him in respect of his General Retail Liquor Licence.

(3) A holder of a Railway Station Liquor Licence granted in respect of a railway rest-house may hold an Hotel Liquor Licence in respect of such rest-house for the same period on payment of one-quarter of the fee prescribed for an Hotel Liquor Licence in addition to the amount paid by him in respect of his Railway Station Liquor Licence.

Passed in the Legislative Council the twenty-second day of December, in the year of Our Lord one thousand nine hundred and thirty-four.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

Acting Clerk of the Legislative Council.

No. LXII of 1934

An Ordinance to Provide for the Control of the Sale of Liquor.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:

1. This Ordinance may be cited as the Liquor Ordinance, 1934, and shall come into operation on the 1st day of January, 1935.

2. The provisions of this Ordinance shall not apply:— Exemptions.

(1) Save as may be prescribed by Rules made under paragraph (c) of section 66, to any medical practitioner, apothecary, chemist, or druggist who may administer or sell for purely medical purposes any bona fide medicine containing intoxicating liquor as hereinafter defined.

(2) To any person selling any spirituous or distilled perfume or perfumery.

Provided that no person shall sell to a native, a Swahili, a Somali, a Baluchi, born in Africa, a Malagasy, or a Comoro Islander, any perfume, essence or essentia containing more than 10 per centum of alcohol except by virtue of a special permit which may be granted for each occasion by a district commissioner.

(3) To any person, who is not licensed for the sale of intoxicating liquor for consumption on the premises, selling methylated spirits to persons other than natives, Swahilis, Somalis, Baluchis born in Africa, Malagases, or Comoro Islanders.

(4) To any auctioneer selling by auction liquor in quantities not less than such as are authorized to be sold under a wholesale license belonging to a licensed dealer upon the licensed premises of such dealer.

(5) To the sale to persons, other than natives, Swahilis, Somalis, Baluchis born in Africa, Malagasies, or Comoro Islanders, by a deceased person's legal personal representative of any liquor forming part of the estate of such deceased person.

(6) To any person acting under the authority of any court, or to any officer of customs in the exercise of discharge of his duties.

Interpretation: In this Ordinance unless inconsistent with the context—

"habitual drunkard" means any person convicted under this Ordinance, or under any other law, of being drunk and disorderly or drunk and incapable who has been so convicted on three other occasions within twelve months immediately preceding such conviction. Such person shall, however, cease to be a habitual drunkard if at any time thereafter he shall not again be so convicted for a period of twelve consecutive months.

"intoxicating liquor" or "liquor" means any spirit, wine, ale, beer, porter, cider, perry, hop beer, and any liquor of a strength exceeding 3 per centum of proof spirit, and any other liquor which the Governor may, from time to time, declare by proclamation to be included in this definition, but does not include native intoxicating liquor as defined in the Native Liquor Ordinance, 1930.

"intoxicating medicine" means any patent or proprietary medicine which the Governor may, by proclamation, declare to be an intoxicating medicine;

"licence" means any licence for the sale or manufacture of liquor granted under this Ordinance;

"licensing area" means a district or a group of districts which the Governor may, by notice in the Gazette, declare to be a licensing area for the purposes of this Ordinance;

"meal" means a luncheon, dinner or supper actually supplied for which a price of not less than one shilling per head is actually paid or bona fide to be paid;

"methylated spirits" means spirits with which any substance is mixed so as to render the mixture unfit for human consumption as a beverage;

"new licence" means a licence applied for in respect of premises not licensed for the sale of intoxicating liquor at the date of application therefor;

"spirituous liquor" means liquor manufactured by any process of distillation.

4. (1) No person shall sell any intoxicating liquor or manufacture any malt liquor in the Colony without a licence.

(2) No person licensed under this Ordinance for the sale of intoxicating liquor for consumption on the premises shall sell or keep or permit to be sold or kept on the licensed premises methylated or other denatured spirits.

5. (1) Save as otherwise provided by the Industrial Alcohol Ordinance it shall not be lawful for any person within the Colony to distil wine or spirituous liquors from any article.

(2) Any person contravening the provisions of this section shall on conviction be liable to the penalties provided in section 38 of this Ordinance, and all the liquor and all the machinery used for such distilling or manufacture found on his premises may be forfeited.

6. The provisions of section 5 of this Ordinance shall not apply to the owner or occupier of land distilling wine or spirituous liquor from the grapes or fruits grown on such land for his own use.

LICENCES:

7. The licences to be granted under this Ordinance shall be issued by the district commissioners in the several districts of this Colony who shall, in regard to the issue of such licences and to any privilege allowed or granted to the holders thereof to be noted or endorsed upon any licence, conform to the provisions of this Ordinance and to any rules made by the Governor relating to the performance of their duties under this Ordinance.

8. For or in respect of licences granted or renewed or transfers or renewals or privileges allowed to the holders of licences under and in terms of this Ordinance there shall be paid to the district commissioner the fees set out in the Schedule hereto.

The sale or manufacture of liquor without a licence prohibited. Licence does not authorize sale of methylated spirits.

Prohibition of distilling. Cap. 102.

Exemption from prohibition of distilling.

Issue of licences.

Fees to be paid in respect of licences.

Description of licence. 9. Licences of the several descriptions following may be granted under this Ordinance:

- (1) A wholesale liquor licence.
- (2) An hotel liquor licence.
- (3) A restaurant or café liquor licence.
- (4) A malt liquor licence.
- (5) A wine merchant's and grocer's liquor licence.
- (6) A general retail liquor licence.
- (7) A railway station liquor licence.
- (8) A theatre liquor licence.
- (9) A temporary liquor licence.
- (10) A brewer's liquor licence.
- (11) A steamship liquor licence.
- (12) A canteen liquor licence.
- (13) A railway restaurant car liquor licence.
- (14) A camp canteen liquor licence.
- (15) A temporary extension licence.
- (16) A proprietary club liquor licence.
- (17) A members' club liquor licence.

Varieties of licence. 10. In regard to licences granted under this Ordinance the following definitions and provisions shall apply:

Wholesale licence. (1) (a) A Wholesale Liquor Licence shall authorize the holder to sell and deliver liquor of one trade description in quantities of not less than two gallons, if in cask, or in not less than twelve reputed quart bottles or twenty-four reputed pint bottles to be delivered at one time to one person to be consumed elsewhere than on the premises.

(b) Such licence may be issued to an individual or to a company or partnership when two or more persons carry on a business, as a company or partnership in the same premises.

Hotel liquor licence. (2) (a) An Hotel Liquor Licence shall authorize the sale—

- (i) to a lodger on the premises, of liquor for his own consumption on the premises on any day at any hour;
- (ii) to a lodger on the premises, of liquor for the consumption on the premises by the guests of such lodger between the hours of 10 a.m. and 12 midnight: Provided that the sale of liquor to

such guests shall not be authorized between the hours of 11 p.m. and 12 midnight unless such liquor is required for consumption at a meal to be consumed on the premises.

(b) No such licence shall be granted unless it is proved to the satisfaction of the licensing court that the premises afford reasonable accommodation for visitors and are provided with proper sanitary arrangements.

(c) Nothing in this section contained shall prevent the grant or renewal of a general retail liquor licence as well as an hotel liquor licence to the keeper of an hotel.

(3) A Restaurant or Café Liquor Licence shall, save as herein provided, authorize the sale of liquor by retail on any day between the hours of 10 a.m. and 12 midnight to persons taking meals in the restaurant or café in respect of which such licence has been granted, to be consumed at such meals: Provided that, in the case of Sundays, Good Friday and Christmas Day the following hours shall be the hours during which the sale of such liquor shall be authorized:

In the Colony of Kenya:
Sundays and Good Fridays... 12 noon to 3.30 p.m. and

Christmas Day... 6 p.m. to 9 p.m. and 12 noon to 3 p.m.

and

In the Protectorate of Kenya:

Sundays and Good Fridays... 11 a.m. to 1.30 p.m. and

Christmas Day... 6 p.m. to 9 p.m.

and

Christmas Day... 11 a.m. to 2 p.m.

and

Christmas Day... 6 p.m. to 11 p.m.

(4) A Malt Liquor Licence shall, save as herein provided, authorize the sale of ale, beer, port, cider, perry licence and hop beer to be consumed on the premises specified in the licence on any day between the hours of 10 a.m. and 11 p.m.: Provided that, in the case

of Sundays, Good Friday and Christmas Day, the following hours shall be the hours during which the sale of such ale, beer, porter, cider, perry and hop beer shall be authorized:

In the Colony of Kenya:

Sundays and Good Fridays... 12 noon to 2.30 p.m.

and

6 p.m. to 9 p.m.

Christmas Day... 12 noon to 3 p.m.

and

6 p.m. to 9 p.m.

In the Protectorate of Kenya:

Sundays and Good Fridays... 11 a.m. to 1.30 p.m.

and

6 p.m. to 9 p.m.

Christmas Day... 11 a.m. to 2 p.m.

and

6 p.m. to 11 p.m.

- (5) Save as is provided in this sub-section a Wine Merchant's and Grocer's Licence shall authorize the sale on the premises therein specified and for consumption elsewhere than on such premises on any day between the hours of 6 a.m. and 9 p.m. of not less than one reputed quarter-pint bottle securely corked and stoppered:

Provided that, in any municipality, township or area to which the Shop Hours Ordinance, 1925, has been applied, unless the premises in respect of which such licence has been granted are used solely for the purpose of the sale of intoxicating liquor, such licence shall authorize such sale only between the hours of 6 a.m. and 6 p.m.

Provided further that, notwithstanding the provisions of the Shop Hours Ordinance, 1925, it shall be lawful for the holder of such licence to sell such liquor on Sundays, Good Friday and Christmas Day between the hours of 9 a.m. and 12 noon.

- (6) A General Retail Liquor Licence shall, save as herein provided, authorize the sale of liquor in any quantities on the premises therein specified on any day between the hours of 10 a.m. and 12 midnight for consumption on or off the premises: Provided that, in the

Wine,
Merchant's
and Grocer's
Licences.

No. 24 of 1925

No. 24 of 1925

General
Retail liquor
Licence.

case of Sundays, Good Friday and Christmas Day, the following hours shall be the hours during which the sale of such liquor shall be authorized:—

In the Colony of Kenya:

Sundays and Good Fridays... 12 noon to 2.30 p.m.

and

6 p.m. to 9 p.m.

Christmas Day... 12 noon to 3 p.m.

and

6 p.m. to 11 p.m.

In the Protectorate of Kenya:

Sundays and Good Fridays... 11 a.m. to 1.30 p.m.

and

6 p.m. to 9 p.m.

Christmas Day... 11 a.m. to 2 p.m.

and

6 p.m. to 11 p.m.

Provided further that notwithstanding the provisions of this sub-section the sale of liquor between the hours of 11 p.m. and 12 midnight shall not be authorized except for consumption at a meal to be consumed on the premises:

- (7) (a) A Proprietary or Members' Club Liquor Licence shall authorize the sale and supply of liquor in any quantity to the members of the club at any time for consumption on the premises in respect of which it has been issued: Provided that no place of accommodation, entertainment or refreshment shall be considered to be a club where persons other than members or the invited guests of members are allowed entry or accommodation, or where persons other than members are charged or permitted to pay for any refreshment or accommodation they may obtain therein.

(b) Every club licence shall be issued to the proprietor, secretary or manager of the club.

No transfer of any such licence shall be necessary upon any change of any such proprietor, secretary or manager, but the person for the time being holding any such office shall be entitled to the privileges granted by the licence and shall be subject to the duties and liabilities imposed upon the holder thereof.

Club Liquor
Licence.

Railway station liquor licence.

(8) (a) A Railway Station Liquor Licence shall authorize the sale of liquor by retail at any railway station refreshment room or other railway premises named in such licence to bona fide passengers travelling by train or lawfully using the railway premises for railway purposes.

(b) An applicant for a Railway Station Liquor Licence must produce a written recommendation from the manager of the railway that such licence be granted or renewed to such applicant.

Theatre-liquor licence.

(9) A Theatre Liquor Licence shall authorize the holder thereof to sell (in any building a portion of which is used as a place of entertainment) by retail, on any day at such hours between the hours of 2 p.m. and 12 midnight as the entertainment may continue, to members of the staff of the theatre and to members of the audience at and to the performers in such entertainment, liquor for consumption on the premises in respect of which the licence has been granted.

Temporary liquor licence.

(10) (a) A Temporary Liquor Licence shall authorize the holder, being also a holder of a general retail liquor licence, to sell liquor by retail at any place of recreation or public amusement or other assembly for the period during which such recreation or amusement continues, subject to such restrictions and conditions as the district commissioner authorizing the issue of the licence may think fit.

(b) No certificate from a licensing court shall be required in respect of the grant of such licence.

(c) The licence shall specify the name of the applicant, the place for which such temporary licence is granted, the number of days and the hours during which the sale thereunder is authorized and such restrictions and conditions as the district commissioner may impose. Provided that the number of days mentioned in such licence shall not exceed three.

(d) The officer issuing the licence shall give notice to the police officer in charge of the district in which the place for which such licence has been granted is situate, of the grant of any temporary liquor licence and the particulars thereof.

(11) (a) A Brewer's Liquor Licence shall authorize the holder thereof to manufacture malt liquor and to sell such liquor by wholesale only.

(b) The provisions of sub-section (1) of this section shall apply *mutatis mutandis* to such licence.

(12) (a) A Steamship Liquor Licence shall authorize the holder to sell any liquor on board a steamship plying on Lake Victoria or on other inland waters.

(b) A Steamship Licence shall specify the steamship in respect of which it is issued and shall be valid only on that steamship.

(c) No liquor shall be sold under such licence when the steamship in respect of which it is issued is in port, except to the passengers on such steamship and to the members of the crew of such steamship.

(13) (a) A Canteen Liquor Licence shall authorize the sale of liquor by retail on any premises set apart as a canteen, club, institute, mess, or other similar institution for the use of members only of His Majesty's Navy, His Majesty's Army, the Royal Air Force, the King's African Rifles or the Kenya Police Force, the Kenya Defence Force and the Kenya Naval Volunteer Reserve. Such licence shall authorize the sale of liquor to members only of the canteen, club, institute, mess, or other similar institution for consumption on the licensed premises only.

(b) If a district commissioner is satisfied that the profits derived by any such canteen, club, institute, mess or other similar institution from the sale of liquor are devoted solely to the benefits of the funds of such canteen, club, institute, mess or other similar institution, he may, notwithstanding the provisions of this Ordinance, issue a Canteen Liquor Licence free of charge.

(c) A district commissioner may, without requiring the certificate of any licensing court, issue a Canteen Liquor Licence or a Camp Canteen Liquor Licence to such person as the officer commanding the force or regiment in respect of which the licence is required shall nominate.

Railway
Restaurant
Car liquor
licence.

- (14) (a) A Railway Restaurant Car Liquor Licence shall authorize the holder to sell any liquor on a railway restaurant car.
- (b) Such licence shall be necessary in respect of each restaurant car.
- (c) No liquor shall be sold under such licence except to passengers travelling by the train to which such restaurant car is attached.

Camp Canteen
liquor licence.
No. 12 of 1928.

- (15) A Camp Canteen Liquor Licence shall be valid for the duration of a training camp held under the provisions of the Defence Force Ordinance, 1927, or for seven days, whichever period is the shorter, and shall authorize the sale of liquor at the camp for consumption in the camp.

Temporary
Extension
Licence.

- (16) (a) A Temporary Extension Licence may be granted by a district commissioner to the holder of a General Retail Liquor Licence or of a Restaurant or Café Liquor Licence and shall authorize the sale of liquor—
- (i) in respect of any day, other than a Sunday or Good Friday, between the hours of 11 o'clock at night and 2 o'clock in the morning on any particular day specified therein;
- (ii) in respect of a Sunday, between the hours of 9 o'clock and 11 o'clock at night.
- (b) No such licence shall be granted in respect of a Good Friday.
- (c) For the purposes of sub-paragraph (i) of paragraph (a) of this sub-section "day" means any period of twenty-four hours ending at 6 o'clock in the morning.

Provision of
sanitary
arrangements
on premises.

- (17) No licence which authorizes the sale of any liquor for consumption on the premises shall be granted by any licensing court, or in the case of a temporary liquor licence by any district commissioner, unless it is proved to the satisfaction of such licensing court or of such district commissioner, as the case may be, that the premises are provided with proper sanitary arrangements.

Sale during
11 p.m. to
12 midnight
permissible and
compulsory.

- (18) Nothing in this section contained shall be construed to mean that the holder of a Restaurant or Café Liquor Licence or a General Retail Liquor Licence

shall be compelled to sell liquor between the hours of 11 p.m. and 12 midnight, or, in the case of the holder of an Hotel Liquor Licence, that the holder thereof shall be compelled to sell liquor to a lodger on the premises for the consumption by the guests of such lodger between such hours.

(19) Notwithstanding the provisions of the Licensing Ordinance, 1933, or of any Ordinance amending or replacing the same, every liquor licence granted under the provisions of this Ordinance shall authorize the holder of such licence to sell, during the hours during which the sale of liquor is authorized under such licence, cigars, cigarettes, tobacco and matches.

Licence to
include sale
of tobacco.

Licensing Courts.

11. (a) The Governor may appoint in and for any licensing area a licensing court for the consideration and determination of applications for or relating to the granting, renewal or transfer of licences for the sale of intoxicating liquor and for the manufacture of malt liquor within such licensing area.

(b) Every licensing court so appointed shall consist of not more than seven and not less than three persons residing in such licensing area:

Provided that, where in any licensing area there is established a Municipal Council or a Municipal Board, one of the members of the licensing court for such area shall be a member of such Municipal Council or Board who shall be appointed by the Governor with the approval of such Municipal Council or Board.

12. (1) The following persons shall be disqualified for appointment, and if appointed shall not continue, as members of a licensing court:—

Disqualifica-
tion of
members of
court.

(a) The holder of any licence for the sale or manufacture of liquor.

(b) Any person interested or concerned in any partnership or company with any holder of such licence as aforesaid or with any brewer.

(c) Any paid officer or paid agent of any partnership or society, interested in the sale, or the prevention of the sale, of intoxicating liquor.

- (d) Any person employed directly or indirectly as an agent for the purpose of making application for a licence for any other person, or any partner of any person so employed as an agent.
- (e) Any person being the agent or manager of, or a partner in, any trade or calling carried on upon any premises licensed or in respect of which an application for a licence has been made, or the owner or lessor of or the holder of any mortgage in respect of such premises.
- (f) An undischarged bankrupt.
- (g) Any person who, in the Colony or elsewhere, has had a sentence of imprisonment without the option of a fine imposed upon him for the commission of some crime or offence not of a political character and who has not received a full pardon therefor.
- (h) The fact that a person is a member of a club holding a club-liquor licence shall not in itself disqualify him from being a member of a licensing court.
- (2) Any person so disqualified who knowingly acts or sits as a member of a licensing court, shall on conviction be liable to a fine not exceeding one hundred and fifty pounds.

Appointment of members.

13. Every person appointed by the Governor to be a member of a licensing court shall be appointed annually, or on the occurrence of any vacancy, and shall hold office until the thirty-first day of December in the year in which he is appointed, unless his office shall be vacated by death, resignation, or by his ceasing to reside in the licensing area.

When meetings to be held.

14. A meeting of the licensing court open to the public shall be held in each licensing area on the second Monday in the months of June and December in each year, at such place or places as the Governor may appoint, for the purpose of considering all applications for the granting, renewal, transfer or removal of any licence for or in respect of which notice in accordance with the provisions of this Ordinance has been given.

Quorum.

15. (1) In any licensing court constituted in accordance with the provisions of section 11 of this Ordinance three members shall form a quorum.

(3) If a quorum is not present on the day appointed as advertised, or at any adjournment thereof, the said meeting shall be adjourned from day to day until a quorum can be present to hold such meeting.

16. (1) The district commissioner of the district wherein a licensing court is appointed to be held shall preside at every meeting of the licensing court, but in his absence the members present may elect one of their number to preside.

The district commissioner to preside at meeting.

(2) The decision of the majority of members present shall be the decision of the court, and the officer or person presiding shall, in the case of an equality of votes, have a casting as well as a deliberative vote.

17. It shall be lawful for a licensing court to adjourn any meeting from time to time as it may think fit. Provided that no such adjournment or adjournments shall extend beyond a period of one month after the date of the first meeting of the court.

Adjournment.

18. The person presiding at any meeting of the licensing court shall, within seven days after such meeting or any adjournment thereof is concluded, cause to be forwarded to each district commissioner within the licensing area for which the court has been appointed a return signed by him specifying the names and places of residence of all persons to whom certificates have been granted by the court for the purpose of obtaining or renewing licences, and the nature of the licences authorized, granted or renewed in the respective districts, and shall, at the same time, forward to the Commissioner of Police a copy of such return and—

Returns of licences to be forwarded to district commissioner and to Commissioner of Police.

- (a) a return of the number of the licences existing immediately before the sitting of the court;
- (b) a return of the number of licences authorized to be renewed;
- (c) a return of the number of licences transferred to other premises;
- (d) a return of the number of new licences authorized to be granted; and
- (e) a return of the number of licences refused.

19. (1) Any person interested in any premises about to be constructed or in course of construction for the purpose of being used for the sale of intoxicating liquors for consumption on the premises, may apply to the licensing court.

Provisional licences.

for the provisional grant of a licence in respect of such premises; and the licensing court, if satisfied with the plans submitted to it of such premises and if satisfied that if such premises had been actually constructed in accordance with such plans it would on application have granted such a licence in respect thereof, may make a provisional grant.

(2) A provisional grant shall not be of any validity until it has been declared to be final by the district commissioner of the district wherein a licensing court is appointed to be held.

(3) Such declaration shall be made if such district commissioner is satisfied that the premises have been completed in accordance with such plans as aforesaid and that no objection can be made to the character of the holder of such provisional licence.

20. (1) If through any accident or omission anything required by this Ordinance to be done is omitted to be done or is not done within the time fixed, the Governor may order all such steps to be taken as may be necessary to rectify any such error or omission and may validate anything which may have been irregularly done in matter or form, so that the intent and purpose of this Ordinance may have effect. The Governor may, if he thinks fit, also authorize the holding of a special meeting of any licensing court.

(2) Any licence granted at any special meeting of the licensing court shall continue in force only until the close of its next ordinary meeting.

Evidence to be given on oath.

21. (1) When any licensing court deems it necessary to take evidence respecting any question to be determined by such court, such evidence shall be given on oath (which oath the person presiding is hereby authorized to administer) and shall be filed on record in the office of the district commissioner of the district wherein a licensing court is appointed to be held.

False evidence being.

(2) If any person upon any examination on oath before any licensing court wilfully and corruptly gives false evidence such person shall be deemed to be guilty of perjury within the meaning of section 97 of the Penal Code.

No. 10 of 1930.

APPLICATIONS FOR LICENCES

22. (1) Any person who desires to obtain a licence for the sale of liquor under this Ordinance (save and except where otherwise provided for) or the removal of any licence from the licensed premises to any other premises in the same district, or the transfer of a licence by the holder thereof to any other person, shall make application in writing to the district commissioner of the district wherein a licensing court is appointed to be held before the twenty-fifth day of April or the twenty-fifth day of October, as the case may be, setting forth his full name and address, the full names of his partners (if any), the nature or description of the licence required to be obtained or transferred, as the case may be, the number or names (if any) of the house and the street or road where the business is intended to be or is carried on, or, in the case of the transfer of a licence, the name of the person to whom the same is desired to be transferred: Provided that where any application as aforesaid through inadvertence is not made in due time, the district commissioner may, if he thinks fit, accept such application for the consideration thereof by the licensing court at the next meeting or any adjournment thereof on payment of such sum, not exceeding one hundred and fifty shillings, as he may impose, and upon such terms as to notice as he may prescribe.

Every application for a licence shall bear a stamp of ten shillings affixed by the applicant and cancelled by the district commissioner.

For the purposes of this sub-section an application for a Railway Restaurant Car Liquor Licence shall be made to the District Commissioner, Nairobi, and for this purpose "the court" shall mean the court for the licensing area within which Nairobi is situate.

(2) In the case of an application for the renewal of a licence no notice need be given, but no such application shall be considered by the licensing court unless such application is made on the first day of the meeting of such court.

(3) Any person who desires to obtain a licence under the provisions of which the sale of liquor for consumption on the premises will be authorized shall, in addition to complying with the requirements of sub-section (1) of this section, at the same time submit a plan of the premises in respect of which the application is made.

Provided that, if such premises have already been licensed and the application is made for a renewal or transfer of the licence, it shall not be obligatory on the applicant to submit such plan unless the licensing court may so order.

(4) In the case of an application for a Proprietary or Members' Club Licence this applicant shall, in addition to the other requirements of this section, furnish a statutory declaration to the effect:

- (a) that the club is managed by a committee of its members;
- (b) that such committee holds regular meetings of which proper minutes are kept;
- (c) that only members of the club (including bona fide honorary, temporary and reciprocity members) are permitted to pay for accommodation or refreshment supplied therein;
- (d) that 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;
- (e) that the election of such members is either by a committee or by all members of the club provided that the rules of the club may disqualify from voting any member in arrears with any payment due to the club;
- (f) that no person resident within ten miles of the club house is eligible for honorary or temporary membership of the club for more than one unbroken period in any one year, save where:
 - (i) such eligibility is, in terms of the rules of the club, granted by reason of such person holding some public or religious office or being a bona fide candidate for membership; or
 - (ii) by resolution of the club committee such person is allowed the privileges of temporary membership by virtue of his engagement in any match or competition organized by the club committee.

Provided that in the case of a sports club a person paying a green or playing fee may be granted the privileges of temporary membership for the period covered by such fee.

(g) that proper accounts are kept; and
 (h) that a register of ordinary members and of honorary members and reciprocity members is kept.

(5) (a) An application for a members' club licence in respect of the year 1935 by a members' club formed before and in existence on the thirty-first day of December, 1934, shall be made in accordance with the provisions of this section before the twenty-fifth day of April, 1935, and if the grant of a licence is approved by the licensing court such licence shall be issued with retrospective effect to the first day of January, 1935.

(b) Between the first day of January, 1935, and a date to be fixed by the Governor by notice in the Gazette (which date shall be as soon as possible after the sitting of the licensing court in June, 1935) a members' club formed before and in existence on the thirty-first day of December, 1934, shall be deemed to be in possession of a members' club licence.

23. (1) The district commissioner on receiving an application under section 22 of this Ordinance, shall cause to be posted in some conspicuous place at or in his office, a notice containing the name of the applicant, the situation of the premises in respect of which the application is made, and the day on which and place where the licensing court will sit for hearing such application, and a copy of such notice shall be sent by post or otherwise to every member constituting such court, and to the Government Printer for publication in the Gazette.

(2) The district commissioner shall, as soon as possible after receiving such application, cause the name of such applicant as aforesaid to be sent to the Commissioner of Police and, where the application is in respect of premises situate within a municipality, to the town clerk of such municipality. It shall be the duty of the Commissioner of Police before the hearing of the application to report as fully as possible to the licensing court on all matters which would affect the decision of the licensing court in respect of such application as aforesaid.

(3) The notice mentioned in sub-section (1) of this section shall be posted and published at least thirty days before the sitting of the said court. Provided that no licence authorized to be granted by any such court shall be capable of being questioned on the grounds that any such notice was not duly posted, published or sent as aforesaid.

Members' club licence for 1935.

The district commissioner to publish notice of application.

Death or
insolvency of
applicant.

24. If an applicant, after applying for the grant or renewal or removal of a licence, dies or files his petition in bankruptcy on or before the day fixed for the consideration of his application, the licensing court may, if it thinks fit, grant a certificate for such licence to the widow of any deceased applicant or to the executor, administrator, receiver, or trustee as the case may be, of the estate of such applicant.

OBJECTIONS TO APPLICATION FOR LICENCES.

Who may
object to issue
of licences.

25. Any European member of the police force, acting on the general or special instructions of the Commissioner of Police, or any person residing in a district wherein a licence is applied for, may either individually or jointly with others object to the grant or renewal of a licence.

Objections,
how to be
made.

26. (1) All objections to the grant or renewal of a licence shall be made in writing to the district commissioner of the district wherein a licensing court is appointed to be held, and where the objection is to the renewal of a licence, notice thereof stating the reason for such objection shall be given to the applicant personally or by means of a registered letter by the person or persons objecting at least ten days before the hearing of the application by the licensing court.

(2) A licensing court may hear an objector to the grant or renewal of a licence notwithstanding that such objector has not sent his objection to such district commissioner: Provided that in such case, the court shall, if the applicant so demands, adjourn the hearing of the application for at least ten days.

(3) (a) Every applicant for a new licence shall, save as herein provided, appear in person before the licensing court and shall prove to the satisfaction of such licensing court that there is a real necessity for the provision being made for the sale of intoxicating liquor in the particular locality in which the premises, in respect of which the application is made, are situate. Such applicant may be called upon by the court to answer on oath such questions as it may think necessary: Provided that it shall be lawful for the applicant and any applicant for removal, transfer or renewal of a licence to be represented at his hearing by an advocate.

(b) The licensing court may, however, require the attendance of the person applying for the renewal of a licence or the responsible manager of the premises in respect of which the licence is applied for, and may call upon such person or manager to answer on oath such questions as the court may think necessary and relevant to the inquiry at issue.

(3) Any objector to the grant or renewal of a licence may appear personally before the licensing court or may be represented by an advocate.

(4) The council or board of any municipality may, by writing under the hand of the chairman thereof, authorize any person to appear before the licensing court for the purpose of objecting on behalf of the inhabitants to the grant or renewal of a licence within the area of such municipality.

27. The licensing court may refuse to grant or to renew a licence, or may grant or renew a licence subject to such conditions, not repugnant to the provisions of this Ordinance, as it may deem fit, and such conditions shall be embodied in the licence.

Court may
refuse to
grant or
renew a
licence.

Provided that a court shall only refuse to renew a licence when it is proved to its satisfaction that—

- (a) the holder thereof has been convicted of an offence against the provisions of this Ordinance; or
- (b) the holder thereof has had a sentence of imprisonment imposed upon him for the commission of some crime or offence (not of a political character) without the option of a fine and who has not received a full pardon thereof; or
- (c) the business is conducted in an improper manner; or
- (d) that the conditions upon which the licence (in respect hereof of which the application for renewal has been made) was granted have not been satisfactorily fulfilled.

Provided further that the licensing court may only refuse to grant or to renew a Proprietary Club Liquor Licence or a Members' Club Liquor Licence on the following grounds—

- (a) that the proprietor, manager or secretary of the club has been convicted of an offence against this Ordinance; or
- (b) that the rules of the club do not conform to the requirements specified in sub-section (4) of section 23 of this Ordinance; or
- (c) that the rules specified in sub-section (4) of section 23 of this Ordinance are habitually contravened by the club or any member thereof.

And when there is no objection.

28. (1) The licensing court may of its own motion take notice of any matter or thing which, in the opinion of the members thereof, would constitute an objection to the grant or to the renewal, transfer or removal of a licence, notwithstanding that no objection has been made thereto by any person.

(2) In any case when the application is for the renewal, transfer or removal of a licence, the court shall inform the applicant of the objection, and shall if the applicant so requests adjourn the further consideration of the application for any period of not less than seven days, to enable the person affected by such objection to have the opportunity of replying thereto.

(3) The court shall after such adjournment give notice in writing, signed by the president, to the person affected of the cause of objection and of the day on which the adjourned application will be considered.

Extension of existing licences when renewal disallowed.

29. If the renewal of a licence held by any person is refused by the licensing court, and if such person has not during the preceding twelve months been convicted of any offence against this or any other law relating to the sale of intoxicating liquors, he shall, upon payment of a proportionate part of the cost of a licence such as that held by him, be entitled to obtain a licence for such period, not being less than one month, as the licensing court shall determine for the purpose of disposing of the liquor then on the premises. Such period shall commence from the day after the last day of the sitting of the court by which the renewal of his licence had been refused or from the termination of his existing licence, whichever day is the later.

CASES IN WHICH LICENCES CANNOT BE GRANTED

OR TRANSFERRED.

When grant shall be disallowed.

30. It shall not be competent for the licensing court to grant a new licence when any of the following objections are proved to its satisfaction—

(1) That the applicant is of bad fame or bad character or of drunken habits, or has previously forfeited a licence or has been convicted at any time previous to his application of selling liquor without a licence.

(2) That the number of premises already licensed is sufficient for the requirements of the neighbourhood.

(9) That the premises in respect of which the application is made are out of repair or are not kept in a clean and wholesome condition.

31. It shall not be competent for the licensing court to grant a new licence or the transfer of a licence to any person—

Persons to whom a licence shall not be granted.

(1) who, in this Colony or elsewhere, has had a sentence of imprisonment imposed upon him for the commission of some crime or offence (not of a political character) without the option of a fine and who has not received a full pardon therefor;

(2) who, in the case of a retail licence, is not residing in this Colony;

(3) who is under the age of twenty-one years;

(4) who is a native of Somaliland, a Somali, a Baluchi born in Africa, or Malagasy, or a Comoro Islander.

The premises in respect of which a licence is issued or transferred to any person disqualified under this section shall be closed for the sale of liquor by order of the district commissioner of the district in which a licensing court is appointed to be held for the licensing area in which the premises are situate, until such time as the licence is transferred.

TRANSFER AND REMOVAL OF LICENCES.

32. The holder of a licence (other than a club licence) who, during the currency thereof, sells or disposes of his business or the house or premises in respect of which such licence was granted, may make application to the district commissioner of the district in which a licensing court is appointed to be held for the licensing area in which such premises are situate, for a temporary transfer of such licence to the purchaser of such business or in the purchaser or lessee of such premises, as the case may be; and such district commissioner may, if he thinks fit and upon payment by the applicant of the sum of thirty shillings, grant a temporary transfer of such licence accordingly.

Transfer of licence.

33. The holder of any licence who desires to remove his licence from the licensed premises to any other premises in the same licensing area, may make application to the district commissioner of the district in which a licensing court is appointed to be held for the licensing area in which the premises to which it is proposed to remove the licence are

Removal of licensed premises.

situating for permission to remove such licence; and such district commissioner, if satisfied that to wait for the next meeting of the licensing court would subject such holder to serious loss or inconvenience and if he thinks fit, after hearing any objections to such removal, may, upon payment by the applicant of the sum of thirty shillings, authorize such removal after not less than thirty days' notice of such application has been affixed in a conspicuous place on the outside of the premises to which it is proposed to remove the licence, and at such district commissioner's office.

Fresh application to be made.

34. Any person to whom a licence may be temporarily transferred and any person who may be authorized to remove his licence to other premises and any person to whom a provisional licence has been granted shall, at the next meeting of the licensing court, apply for a licence as if he were not a licensed person.

Where transfer or removal not ratified.

35. A licensing court shall not be bound to ratify a temporary transfer or removal sanctioned by a district commissioner; and, should it refuse to do so at its next meeting after considering the application made in respect thereof, such licence shall, as to the person to whom the same was originally granted or in respect of the premises originally licensed, be considered to be in the same position as if no such transfer or removal has taken place; and an application for the renewal of the licence by the transferee shall at the request of the transferor be deemed and taken to be an application by him for such renewal.

Death of holder of licence.

36. In the event of the death of the holder of any licence, the widow (if any), or the executor or administrator of the deceased person, or any person approved by a district commissioner, and in case of bankruptcy the trustee or receiver of the estate of such bankrupt, may carry on the business until the next meeting of the Licensing Court either personally or by an agent, approved of in writing by a district commissioner, without any formal transfer of the licence.

Power and duties of representative of deceased.

37. Any person to whom a licence may be temporarily transferred, or who may be carrying on or conducting the business of licensed premises as the widow or executor or administrator of the estate of any deceased person or as the person approved by such district commissioner or as the trustee

or receiver of any estate of any bankrupt or as any approved agent of any such widow, executor, administrator, trustee or other person shall possess all the rights and be subject and liable to all the duties, obligations and penalties of the original holder of the licence.

OFFENCES.

38. (1) No person who is not licensed shall have any words or letters on his premises importing that he is licensed; and no licensed person shall have any words or letters importing that he is licensed in any way other than that in which he is duly licensed.

(2) Any person guilty of a contravention of this section shall be liable to a fine of seventy-five pounds, and in default of payment to imprisonment for a term not exceeding three months.

39. (1) No person shall sell, barter, give or otherwise supply to any native, Swahili, Somali, Baluchi born in Africa, Malagasy, or Comoro Islander, any intoxicating liquor: Provided that liquor may be supplied to a native, a Swahili, a Somali, a Baluchi born in Africa, a Malagasy, or a Comoro Islander, for medicinal purposes (save as may be prescribed by Rules made under paragraph (c) of section 85 of the Ordinance) or sacramental use, and in such case the burden of proof shall be upon the person who supplied the liquor to show that it was required for such purpose.

Native not to be supplied.

(2) Any person contravening the provisions of this section shall on conviction be liable:—

- (a) For a first offence to a fine not exceeding one hundred and fifty pounds, and in default of payment to imprisonment for a term not exceeding six months;
- (b) For a second offence to a fine of not less than seventy-five pounds, but not exceeding two hundred pounds, and in default of payment to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment;
- (c) For a third or any subsequent offence to imprisonment for a period of not less than two years and not exceeding three years, and in addition to such imprisonment at the discretion of the court to a fine not exceeding twelve hundred pounds, and in default of payment to imprisonment for a further period not exceeding two years.

(3) In any summons or charge for an offence against the provisions of this section, it shall not be necessary to set out the names of the natives, Swahilis, Somalis, Baluchis born in Africa, Malagasies, or Comoro Islanders, to whom intoxicating liquor is alleged to have been sold, bartered, given or otherwise supplied; but it shall be sufficient to allege that such sale, barter, gift or supply was effected to natives, Swahilis, Somalis, Baluchis born in Africa, Malagasies, or Comoro Islanders, as the case may be. Provided that nothing in this sub-section contained shall render it unnecessary to set out accurately in such charge all other material particulars of the charge.

(4) Any holder of a licence who is convicted of contravening the provisions of sub-section (1) of this section shall, in addition to any other penalty, forfeit his licence, and in such case no licence shall at any time thereafter be granted to such person unless and until he shall have received a free pardon for such conviction.

Persons prohibited from selling liquor.

40. (1) No holder of any liquor licence shall employ a person under the age of eighteen or a person convicted of any offence under this Ordinance to sell intoxicating liquor.

(2) Any person knowingly contravening the provisions of this section shall be liable to a fine not exceeding seventy-five pounds, and in default of payment to imprisonment for a period not exceeding three months.

Habitual drunkard or native not to obtain liquor.

41. (1) No habitual drunkard or native, Swahili, Somali, Baluchi born in Africa, Malagasy, or Comoro Islander shall obtain by purchase or barter or be in possession of any intoxicating liquor.

Penalty.

(2) Any person contravening the provisions of this section shall on conviction be liable to imprisonment for a period not exceeding six months.

Onus of proof as to whether a person is a native or not.

42. If, in any proceedings under sections 39, 40 or 41 of this Ordinance, there shall be any question as to whether any person is or is not a native, or a Swahili, or a Somali, or a Baluchi born in Africa, or a Malagasy, or a Comoro Islander, the onus shall be upon the accused to show that he is not a native, or a Swahili, or a Somali, or a Baluchi born in Africa, or a Malagasy, or a Comoro Islander, as the case may be.

43. The holder of any licence who is convicted of any of the following acts or offences shall be liable in respect of each act or offence to a fine not exceeding fifteen pounds, and in default of payment to imprisonment for a period not exceeding one month.

Offences by licence holder.

(1) Permitting drunkenness or any riotous or quarrelsome conduct to take place upon his premises.

(2) Selling liquor to any person already in a state of intoxication, or, by any means, encouraging or inciting any person to drink liquor.

(3) Knowingly selling liquor to any police officer or below the rank of assistant-inspector during any time appointed for such police officer to be on duty, unless such police officer produces the written permission of his superior officer, or knowingly harbouring or suffering to remain on his premises any such police officer during such time as aforesaid, except for the purpose of keeping or restoring order or in the execution of his duty.

(4) Permitting his premises to be used as a brothel or the habitual resort or place of meeting of reputed prostitutes.

(5) Keeping his licensed premises open for the sale of liquor or selling or exposing any liquor for sale during any time when he is not authorized by his licence to sell; or allowing any liquor purchased before the hour of closing to be consumed on such premises after such closing hours.

In the event of a second or subsequent conviction, every such holder shall be liable to a fine not exceeding thirty pounds, and in default of payment to imprisonment for a period not exceeding two months.

Trading without a licence.

44. Any person who, contrary to the provisions of this Ordinance, sells or deals in or disposes of any intoxicating liquor without a licence, or sells or offers or exposes for sale any such liquor at any place where he is not authorized by his licence so to sell, or who sells or deals in or disposes of any intoxicating liquor in any manner other than is provided for in the conditions of his licence shall on conviction be liable to the penalties provided in sub-section (2) of section 39 of this Ordinance, and all liquor found on the premises may be forfeited.

Club licence
abuse of

45. Any holder of a Club Liquor Licence who sells or allows to be sold liquor to any person not being a member of such club, shall be liable for each offence to a fine not exceeding one hundred and fifty pounds, and in default of payment to imprisonment for a period not exceeding six months.

Offences by
retail licence
holders ven-
dering licence
holder liable
to forfeiture
and penalties.

46. The holder of any retail liquor licence shall be liable to forfeit such licence in addition to any other penalty by this Ordinance provided:—

- (1) If he permits any other person to manage, superintend or conduct the business of the licensed premises during his absence for a longer period than one month without the consent in writing of the district commissioner of the district in which the licensing court is appointed to be held for the licensing area in which the premises are situate,

Any person who at any time is lawfully managing, superintending or conducting the business of the holder of any licence shall be subject and liable to the same duties, obligations and penalties as such holder: Provided that nothing herein contained shall be taken to relieve the holder of any duties, obligations or penalties to which he may by law be subject or liable.

- (2) If he, whether he is present at such premises or not, permits any unlicensed person to be in effect the owner or part owner of or interested in the business of the licensed premises except with the consent of such district commissioner.

(3) If he is convicted of any offence under this Ordinance and if previous conviction within the preceding twelve months of the same or any other offence under this Ordinance or three previous convictions within the preceding five years is or are proved.

- (4) If he is twice convicted within the year of selling, offering or keeping for sale any adulterated liquor.

Evidence of
sale of liquor.

47. (1) In any proceeding relating to any offence under this Ordinance it shall not be necessary to show that any money actually passed or that any liquor was actually consumed if the court hearing the case is satisfied that a transaction in the nature of a sale actually took place or that any consumption was about to take place.

(2) (d) Proof of consumption or intended consumption of liquor on licensed premises by some person other than the occupier or member of his family or servant in such premises shall be evidence that the liquor was sold by or on behalf of the holder of such licence to the person consuming or about to consume such liquor.

(b) If any vendor of non-intoxicating beverages not being duly licensed shall supply intoxicating liquor to mix or be taken with such beverage, he shall be deemed to have sold such intoxicating liquor.

48. In any proceeding against any person for selling or allowing to be sold any liquor without a licence, such person shall be deemed to be unlicensed unless he produces his licence or gives other satisfactory proof of his being licensed. The fact of any person not holding a licence having any sign-board or notice importing that he is licensed upon or near his premises or having a house or premises fitted with a bar or other place containing bottles, packs, or vessels so displayed as to induce a reasonable belief that liquor is sold or served therein or having liquor concealed or more liquor than is reasonably required for the person residing on such premises, shall be deemed to be prima facie evidence of the unlawful sale of liquor by such person.

49. If any person, other than the licence holder, a member of his family, his agent or servant, or a person lodging in the licensed premises, is found in any bar on such premises during the hours in which the sale or disposal of liquor to the public is prohibited it shall be taken to be prima facie evidence of a sale of liquor during such hours, and the licence holder on whose premises any such person is found during such hours shall be liable to a fine not exceeding fifteen pounds or in default of payment to imprisonment for a period not exceeding one month: Provided that nothing in this section contained shall apply in the case of persons passing through any bar in any licensed premises for the sole purpose of obtaining access to any other part of such premises.

Persons on
premises of
licence
holder during
prohibited
hours.

50. Any person convicted of contravening any of the provisions of this Ordinance, for or in respect of which no penalty is specially provided, shall be liable to a fine not exceeding thirty pounds, and in default of payment to imprisonment for any period not exceeding three months, and when a penalty has been provided for any offence without any period

Offences for
which no
penalty
provided.

of imprisonment in default of payment thereof, then the person convicted of such offence shall be liable.

If the penalty does not exceed fifteen pounds, to imprisonment for a period not exceeding two months.

If the penalty exceeds fifteen pounds and does not exceed fifty pounds, to imprisonment for a period not exceeding four months.

If the penalty exceeds fifty pounds, to imprisonment for a term not exceeding six months.

Convictions against holder to be endorsed on licence.

51. (1) Every conviction against a licence-holder shall be endorsed by the magistrate on the licence of the convicted person and every application to the licensing court for a renewal of the licence shall, if required by the licensing court, be accompanied by the licence.

(2) Any licensed person convicted of an offence under this Ordinance shall, on demand being made by the court convicting him, produce his licence. Any such person refusing so to produce his licence shall be liable to a fine not exceeding fifteen pounds.

Notice of conviction to be served on the owner of premises.

52. (1) When any tenant of any licensed premises is convicted of an offence against this Ordinance it shall be the duty of the magistrate convicting such tenant to serve a notice of such conviction on the owner of the premises.

(2) Where any order of a court declaring any licensed premises to be disqualified from receiving a licence for any period has been made, the court shall, where the owner is not the occupier, cause such order to be served on the owner of such premises, with the addition of a statement that the court will sit at a time and place therein specified at which the owner may appear and appeal against such order on all or any of the following grounds but on no other grounds—

(a) that notice of a prior offence, which on repetition renders the premises liable to be disqualified from receiving a licence for any period, was not served on the owner as required by this section;

(b) that the tenant by whom the offence was committed held his tenancy under a contract and that the owner could not legally have evicted the tenant in the interval between the commission of the offence in respect of which the disqualifying order was made and the receipt by him of the notice of the immediately preceding offence which on repetition renders

the premises liable to be disqualified from receiving a licence for any period; or

(c) that the offence in respect of which the disqualifying order was made occurred so soon after the receipt of such last-mentioned notice, that the owner, notwithstanding that he had legal power to evict the tenant, could not with reasonable diligence have exercised that power in the interval which occurred between the said notice and the second offence.

(3) If the owner appears at the time and place specified, or at the place to which the court may be adjourned for the purpose, and satisfies the court that he is entitled to have the order cancelled on any of the grounds aforesaid, the court shall thereupon direct such order to be annulled, and the same shall be void.

53. (1) Any licensed person may refuse to admit to and may turn out of the premises in respect of which his licence is granted any person who is drunken, violent, quarrelsome, or disorderly, or whose presence on his premises would subject him to a fine or penalty under this Ordinance.

Power to expel drunkards from licensed premises.

(2) Any such person who, upon being requested in pursuance of this section by such licensed person or his agent or servant or any police officer to quit such premises, refuses or fails so to do, shall be liable to a fine not exceeding seven pounds ten shillings.

(3) All police officers are required on the demand of such licensed person, agent or servant, to expel or assist in expelling every such person from such premises and may use such force as may be required for the purpose.

54. Any person, who knowingly supplies liquor to a person under the apparent age of eighteen years, except for medicinal purposes or sacramental use, or to a habitual drunkard, shall be liable on conviction in respect of each such act to a fine not exceeding fifteen pounds and in default of payment to imprisonment for a period not exceeding one month.

Penalty for supplying liquor to habitual drunkard or person under 18 years.

POWERS AND DUTIES OF DISTRICT COMMISSIONERS AND POLICE OFFICERS.

55. (1) It shall be the duty of the officer in charge of police in every district to report to the district commissioner of the district in which a licensing court is appointed to be held for any licensing area, any licensed premises which are

Report by Chief Officer of Police.

Debt not recoverable in respect of sale of liquor for consumption on premises.

62. No action shall be maintainable to recover any debt alleged to be due in respect of the sale or supply of any intoxicating liquor which was delivered for consumption on the premises where sold or supplied unless the person to whom the same was sold or supplied was at the time of such sale or supply a lodger on such premises.

MISCELLANEOUS

Licences to expire on the thirty-first day of December.

63. (1) Every licence granted on a certificate from the licensing court may be issued for six or twelve months, but shall expire on the thirty-first day of December of the year in which it was issued. Provided that in every case in which an application for the renewal of a licence is made, such licence shall continue in force until the conclusion of the meeting of the licensing court at which such application is made.

(2) Where the fee payable for a licence for twelve months is thirty pounds or over such fee may be paid in two equal instalments:

Provided that if the second instalment is not paid by the thirtieth day of June in the year in which the licence was issued such licence shall be deemed to have lapsed with effect from that date.

Prohibition of payment of wages on licensed premises.

64. Any master or other person employing workman, servants, or labourers, who pays or causes any payment to be made to any such workman, servant or labourer in the year of any premises licensed for the sale of liquor, shall for every such offence be liable to a fine not exceeding fifteen pounds. Provided that nothing herein contained shall extend to any holder of any liquor licence who pays upon his own licensed premises the workman, servants, or labourers employed by him in connection with his licensed premises.

Power to make Rules.

65. The Governor may make Rules—
- (a) regulating the proceedings and meetings of licensing courts;
 - (b) prescribing the forms of licences, notices or documents for use under the provisions of this Ordinance;
 - (c) prohibiting, restricting, or controlling, the sale of intoxicating medicines; and
 - (d) generally for the better carrying out of the provisions of this Ordinance.

Costs incurred in legal proceedings.

66. The costs incurred by the members of any licensing court in connection with legal proceedings instituted against them in their official capacity, shall, unless the court before

which the proceedings are taken order the costs to be borne by the opposite party or by the said members personally; to be paid to them by the Treasurer out of the revenues of the Colony.

67. The Liquor Ordinance (Chapter 71 of the Revised Edition) as amended by the Liquor (Amendment) Ordinance, 1930, and the Liquor (Amendment) Ordinance, 1931, is hereby repealed.

SCHEDULE 12

(1) The following fees are payable for or in respect of Liquor Licences granted, renewed or transferred—

	For twelve months	For six months
(a) Wholesale Liquor Licence	£ 25 0	£ 14 0
(A) Hotel Liquor Licence	20 0	11 10
(c) Restaurant or Café Liquor Licence	30 0	16 10
(d) Mall Liquor Licence	7 10	4 10
(e) Wine Merchants' or Grocers' Liquor Licence	30 0	16 10
(f) General Retail Liquor Licence—		
(i) In respect of premises situate in or within three miles of the boundaries of Nairobi Municipality or Mombasa Municipality	60 0	31 10
(ii) In respect of premises situate in or within three miles of the boundaries of Nakuru Municipality, Eldoret Municipality, Kisumu Township or Kisumu Township or such other townships as the Governor may by proclamation declare	45 0	23 10
(iii) In respect of premises situate elsewhere	35 0	18 10
(g) Proprietary Club Liquor Licence	85 0	24 0
(A) Members' Club Liquor Licence—		
(i) In respect of clubs situate in or within three miles of the boundaries of Nairobi Municipality or Mombasa Municipality	3 0	—
(ii) In respect of clubs situate elsewhere	1 10	—
(f) Railway Station Liquor Licence	15 0	9 0
(g) Theatre Liquor Licence	30 0	16 10
(A) Brewers' Liquor Licence	30 0	16 10
(f) Steamship Liquor Licence	10 0	6 00
(m) Canteen Liquor Licence	7 10	4 10
(n) Railway, Restaurant Car Liquor Licence	15 0	9 0
(e) Temporary Liquor Licence	1 10	a day
(e) Temporary Extension Licence—		
(i) In respect of premises situate in or within three miles of the boundaries of Nairobi Municipality or Mombasa Municipality	Sh. 15 per hour	Sh. 10 per hour
(ii) In respect of premises situate elsewhere	Sh. 10 per hour	Sh. 10 each
(o) Camp Canteen Licence	Sh. 10 each	Sh. 10 each

THE SECRETARIAT,

NAIROBI,

KENYA.

24th December, 1934.

D. Leg. Co. 26/3/5/53.

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1934

Liquor

No. LXII

(2) The holder of a General Retail Liquor Licence may hold an Hotel Liquor Licence or Café Liquor Licence in respect of the same premises for the same period without the payment of any fee in addition to the fee paid by him in respect of his General Retail Liquor Licence.

receive

(3) A holder of a Railway Station Liquor Licence granted in respect of a railway rest-house may hold an Hotel Liquor Licence in respect of such rest-house for the same period on payment of one-quarter of the fee prescribed for an Hotel Liquor Licence in addition to the amount paid by him in respect of his Railway Station Liquor Licence.

Passed in the Legislative Council the twenty-second day of December, in the year of Our Lord one thousand nine hundred and thirty-four.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

J. F. G. TROUGHTON

Acting Clerk of the Legislative Council.

The Colonial Secretary of the Colony and Protectorate of Kenya presents his compliments to the Under Secretary of State for the Colonies, and has the honour to transmit twelve copies of each of the under-mentioned publications:-

- Report of Select Committee of Legislative Council on the European Civil Service Provident Fund (Amendment) Bill.
- Report of Select Committee of Legislative Council on the Licensing Bill.
- Report of Select Committee of Legislative Council on the Asian Civil Service Provident Fund Bill.
- Report of Select Committee of Legislative Council on the Liquor Bill.

- (1) by inserting the word "liquor" between the word "hotel" and the word "licence" which occur in the third line of paragraph (c) of sub-clause (2) of the Clause;
- (2) by adding appropriate marginal notes to sub-clauses (2), (3), (4), (5), (6), (9), (14), (15) and (16) of the Clause;
- (3) by deleting the words and figures -

"Sundays and Good Friday...12 noon to 3.30 p.m.
 and
 5.30 p.m. to 9 p.m.
 Christmas Day.....12 noon to 5.30 p.m.
 and
 5.30 p.m. to 11 p.m."

where they occur in sub-clauses (3), (4) and (6) of the Clause, and substituting therefor in each sub-clause the following -

"In the Colony of Kenya

Sundays and Good Friday...12 noon to 3.30 p.m.
 and
 6 p.m. to 9 p.m.
 Christmas Day.....12 noon to 3 p.m.
 and
 6 p.m. to 11 p.m.

In the Protectorate of Kenya

Sundays and Good Friday...11 a.m. to 1.30 p.m.
 and
 6 p.m. to 9 p.m.
 Christmas Day11 a.m. to 2 p.m.
 and
 6 p.m. to 11 p.m."

(The Hon. Member for Mombasa wishes to place on record his objection to the reduction in the number of hours made by this recommendation).

- (4) by deleting sub-clause (5) of the Clause and substituting the following -

"(5) Save as is provided in this sub-section a Wine Merchant's and Grocer's Licence shall authorise the sale on the premises therein specified and for consumption elsewhere than on such premises on any day between the hours of 6 a.m. and 9 p.m. of not less than one reputed half pint bottle securely corked and stoppered.

Provided/

No. 24 of 1925.

Provided that, in any municipality, township or area to which the Shop Hours Ordinance, 1925, has been applied, unless the premises in respect of which such licence has been granted are used solely for the purpose of the sale of intoxicating liquor, such licence shall authorise such sale only between the hours of 6 a.m. and 6 p.m.:

No. 24 of 1925.

Provided further that, notwithstanding the provisions of the Shop Hours Ordinance, 1925, it shall be lawful for the holder of such licence to sell such liquor on Sundays, Good Friday and Christmas Day between the hours of 9 a.m. and 12 noon."

(5) by deleting sub-clause (16) of the Clause and substituting therefore the following -

"(16)(a) A Temporary Extension Licence may be granted by a district Commissioner to the holder of a General Retail Liquor Licence or of a Restaurant or Cafe Liquor Licence and shall authorise the sale of liquor -

(i) in respect of any day, other than a Sunday or Good Friday, between the hours of 11 o'clock at night and 2 o'clock in the morning on any particular day specified therein;

(ii) in respect of a Sunday, between the hours of 9 o'clock and 11 o'clock at night.

(b) no such licence shall be granted in respect of a Good Friday.

(c) For the purposes of sub-paragraph (i) of paragraph (a) of this sub-section "day" means any period of twenty-four hours ending at 6 o'clock in the morning."

(Rev. Canon the Hon. G. Burns wishes to record his dissent from the grant of Temporary Extension Licences on Sundays).

(6) by adding the following new sub-clause as sub-clause

(17) of the Clause -

"Provision of (17) No licence which authorises the sale of any sanitary arrangements on premises. liquor for consumption on the premises shall be granted by any licensing court, or in the case of a temporary liquor licence by any district commissioner unless it is proved to the satisfaction of such licensing court or of such district commissioner, as the case may be, that the premises are provided with proper sanitary arrangements."

(7) by adding the following new sub-clause as sub-clause (18) of the Clause -

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Sale during 11 p.m. to 12 midnight permission not compulsory.

(18) Nothing in this section contained shall be construed to mean that the holder of a Restaurant or Cafe Liquor Licence, or a General Retail Liquor Licence shall be compelled to sell liquor between the hours of 11 p.m. and 12 midnight, or, in the case of the holder of an Hotel Liquor Licence, that the holder thereof shall be compelled to sell liquor to a lodger on the premises for the consumption by the guests of such lodger between such hours.

(8) by adding the following new sub-clause as sub-clause (19) of the Clause

"Licence to include sale of tobacco.

(19) Notwithstanding the provisions of the Licensing Ordinance, 1933, or of any Ordinance amending or replacing the same, every liquor licence granted under the provisions of this Ordinance shall authorise the holder of such licence to sell, during the hours during which the sale of liquor is authorised under such licence, cigars, cigarettes, tobacco and matches."

5. By inserting after Clause 10 and immediately before Clause 11 the following heading

"LICENSING COURTS."

6. By substituting the word "it" for the word "them" and for the word "they" where these words occur in the seventh and ninth lines of sub-clause (1) of Clause 19.

7. By deleting the words "and relating to" which occur in the heading immediately after Clause 21 and by substituting the word "Applications" for the word "Application" in the same heading.

8. By deleting paragraph (g) of sub-clause (4) of Clause 23 and substituting therefor the following paragraphs

- (g) that proper accounts are kept; and
- (h) that a register of ordinary members and of honorary, temporary and reciprocity members is kept."

9. By substituting the word "application" for the word "application" which occurs in the second line of sub-clause (2) of Clause 23.

10. That Clause 27 be amended by deleting therefrom the first proviso and substituting therefor the following proviso -

"Provided that a court shall only refuse to renew a licence when it is proved to its satisfaction that -

- (a) the holder thereof has been convicted of an offence against the provisions of this Ordinance; or
- (b) the holder thereof has had a sentence of imprisonment imposed upon him for the commission of some crime or offence (not of a political character) without the option of a fine and who has not received a full pardon therefor; or
- (c) the business is conducted in an improper manner; or
- (d) that the conditions upon which the licence (in respect of which the application for renewal has been made) was granted have not been satisfactorily fulfilled."

11. That the words "or renewal" be deleted from the marginal note to section 30.

12. That Clause 30 be amended -

- (1) by deleting the words "or to renew an existing licence" which occur in the second line of the Clause;
- (2) by deleting the comma and words ", in the case of a new licence," where they occur in the first line of paragraph (1) and in the first line of paragraph (2) of the Clause; and
- (3) by deleting paragraph (3) of the Clause and renumbering paragraph (4) as paragraph (3).

13. That Clause 31 be amended by deleting the words "or the renewal of an existing one" which occur in the

second line of the Clause.

(Rev. Canon the Hon. G. Burns and Dr. the Hon. A. C. L. de Souza wish to record their dissent from the amendments recommended in paragraphs 10, 12 and 15 of this Report. They are of opinion that the powers of refusing to renew a licence conferred on Licensing Courts by the Bill as drafted should be retained).

14. By substituting the word "ratified" for the word "rectified" which occurs in the marginal note to Clause 35.

15. By inserting the words "Swahili, Somali, Baluchi born in Africa, Malagasy, or Comoro Islander" after the word "native" which occurs in the second line of sub-clause (1) of Clause 39.

16. By inserting the words "Swahilis, Somalis, Baluchis born in Africa, Malagasies, or Comoro Islanders, as the case may be." after the word "natives" which occurs in the seventh line of sub-clause (3) of Clause 39.

17. That sub-clause (1) of Clause 40 be amended by substituting the word "eighteen" for the word "sixteen" which occurs in the second line of the sub-clause.

18. That Clause 42 be amended by substituting the words "as the case may be." for the words "within the meaning of this Ordinance." which occur at the end thereof.

19. That sub-clause (5) of Clause 45 be amended by inserting the words "of or" between the words "officer" and "below" which occur in the first line of the sub-clause.

20. That the marginal note to Clause 49 be amended by deleting the word "retail" therefrom.

21. That sub-clause (2) of Clause 52 be amended by substituting the word "other" for the word "ohter" which occurs in the eighth line thereof.

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END

22. That Clause 55 be amended by renumbering sub-clauses (4) and (5) thereof as sub-clauses (5) and (4) respectively and by re-arranging them in numerical order.

23. That sub-clause (5) of Clause 55 be amended by substituting the words "may be exercised by a European police officer" for the words "shall be exercisable only by a police officer of or above the rank of assistant superintendent".

24. That Clause 63 be renumbered as Clause 63 (1) and that the following sub-clause be added as sub-clause (2) of the Clause -

"(2) Where the fee payable for a licence for twelve months is thirty pounds or over such fee may be paid in two equal instalments;

Provided that if the second instalment is not paid by the thirtieth day of June in the year in which the licence was issued such licence shall be deemed to have lapsed with effect from that date."

25. That paragraph (2) of the Schedule be amended by substituting the words "licence fee" for the word "sum" which occurs in the fourth line of the paragraph.

We have the honour to be,

Your excellency's most obedient servants,

- SD. W. HARRAGIN (CHAIRMAN)
- SD. G. WALSH (MEMBER)
- SD. H.R. MONTGOMERY (MEMBER)
- SD. F.A. BEESTER (MEMBER)
- SD. CONWAY HARVEY (MEMBER)
- SD. ROBERT DE VERE SHAW (MEMBER)
- SD. A.C.L. DE SOUSA (MEMBER)
- SD. G. BURNS (MEMBER)

Nairobi,

18th December, 1954

PUBLIC RECORD OFFICE

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Reference -

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