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**METHYLATED SPIRITS ACT**

CHAPTER 120

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**CHAPTER 120**

**METHYLATED SPIRITS ACT**  
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**CHAPTER 120**  
**METHYLATED SPIRITS ACT**

[Date of assent: 18th December, 1958.]

[Date of commencement: 23rd February, 1959.]

**An Act of Parliament to make provision for regulating the preparation, sale, supply, possession and use of mineralized methylated spirits, and for purposes incidental to and connected with the foregoing**

[Act No. 49 of 1958, Act No. 28 of 1961, L.N. 2/1964, L.N. 124/1964, Act No. 21 of 1966, Act No. 5 of 2007, Act No. 19 of 2015, L.N. 105/2017.]

**1. Short title**

This Act may be cited as the Methylated Spirits Act.

**2. Interpretation**

In this Act, except where the context otherwise requires—

“**investigating officer**” means any officer appointed under section 13;

“**licence**” means a licence granted under section 7, and includes a licence which has been renewed, transferred or varied;

“**licensing officer**” means an officer appointed under section 5;

“**liquor laws**” means—

- (a) this Act, the Liquor Licensing Act (Cap. 121), and any subsidiary legislation in force under either of those Acts; and
- (b) the provisions of the Customs and Excise Act (Cap. 472) and any subsidiary legislation in force under that Act, in so far as such provisions and subsidiary legislation relate to spirits;

“**methylated spirits**” means spirits mixed with a substance so as to render the mixture unfit, and incapable of being readily converted so as to be fit, for human consumption as a beverage, but does not include specially denatured spirits prepared in accordance with the formula prescribed therefor under the Customs and Excise Act;

“**sale by retail**” means the sale at any one time to any one person of a quantity not exceeding one gallon;

“**sale by wholesale**” means the sale at any one time to any one person of a quantity exceeding one gallon;

“**spirits**” means spirits of any description and includes all mixtures, compounds or preparations made with spirits.

[L.N. 124/1964, Sch.]

**3. Formula for methylated spirits**

(1) The Minister shall make rules prescribing the formula to which for the purposes of this section all methylated spirits shall conform.

(2) Any person who wilfully or negligently supplies, sells, or keeps or exposes for sale, or knowingly and without lawful excuse receives or possesses, any spirits as or purporting to be methylated spirits, which do not conform to the formula prescribed in pursuance of subsection (1) shall be guilty of an offence, and, in

addition to the penalty otherwise prescribed in this Act, any spirits in respect of which the offence was committed shall, together with the vessels containing them, be forfeited.

(3) Nothing in this section shall render unlawful the supply, sale, receipt and possession, for the sole purpose of export, of any methylated spirits, under and in accordance with the terms and conditions of a written permit issued by a licensing officer, who may issue a permit subject to such terms and conditions (including the specification of formulae) as he thinks fit.

#### **4. Prohibition of sale unless licensed**

(1) Any person who sells, or keeps or exhibits for sale, any methylated spirits, whether by wholesale or retail, except under and in accordance with the terms and conditions of a licence issued to him under this Act, shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment, and any spirits, together with the vessels containing them, in respect of which the offence was committed shall be liable to forfeiture.

(2) Subsection (1) shall not apply to a sale—

- (a) by auction, by an auctioneer licensed under the Auctioneers Act (Cap. 526);
- (b) by a deceased person's legal personal representative, of spirits forming part of the deceased person's estate;
- (c) by a trustee in bankruptcy, of spirits forming part of the bankrupt's estate;
- (d) by the liquidator of a company, of spirits forming part of the company's assets;
- (e) of any spirits or preparation declared by the Minister by notice in the *Gazette* to be excluded from the operation of this section.

#### **5. Appointment of licensing officers**

The Minister shall by notice in the *Gazette* appoint one or more persons to be licensing officers for the purposes of this Act, for Kenya or for any specified area thereof.

#### **6. Application for licence**

(1) An application for a licence shall be made to a licensing officer in the prescribed form.

(2) An application for a licence shall specify the premises on which the methylated spirits are to be sold.

(3) An application for a licence shall contain a declaration by the applicant as to whether he has at any time, within Kenya or outside it, been sentenced to imprisonment without the option of a fine, and whether he has been convicted at any time of an offence against any of the liquor laws, giving full particulars of each such offence, the court by which he was convicted, the date of the conviction and the penalty imposed.

(4) Any person who knowingly makes a false declaration in an application for a licence shall be guilty of an offence and liable to a fine not exceeding five thousand shillings.

[Act No. 5 of 2007, s. 3.]

**7. Grant or refusal of licence**

(1) On receipt of an application submitted in accordance with section 6, a licensing officer shall consult the Commissioner of Police and, subject to any special or general directions of the Minister with regard thereto, such other authorities as in his opinion should be consulted, and may then grant to the applicant, on payment of such fee as may be prescribed, a licence for the sale of methylated spirits, or refuse to grant it, or grant the licence subject to such conditions as he may see fit to impose.

(2) Every licence shall be in such form as may be prescribed and shall specify—

- (a) the premises on which the spirits may be sold;
- (b) the maximum quantity of methylated spirits which may at any time be stocked by the licensee;
- (c) such other conditions as the licensing officer may see fit to impose.

(3) Every licence shall be valid for a period of three years from the date of issue.

(4) An applicant for a licence or a licence-holder aggrieved by a decision of a licensing officer under this section may within fourteen days of the notification thereof to him, appeal against the decision to the Minister, and the decision of the Minister upon such appeal shall be final and shall not be questioned in any court.

[Act No. 21 of 1966, First Sch., Act No. 5 of 2007, s. 4(a), s. 4(b).]

**8. Non-eligibility for licences**

Without prejudice to his right to refuse a licence for any other reason, a licensing officer shall not grant a licence to any person who—

- (a) holds a licence issued under the Liquor Licensing Act (Cap. 121) which authorizes him to sell liquor for consumption on the premises; or
- (b) holds a licence issued under the Traditional Liquor Act (Cap. 122); or
- (c) is an undischarged bankrupt; or
- (d) is under twenty-one years of age; or
- (e) has been sentenced to imprisonment, without the option of a fine, for a term exceeding six months, in Kenya or elsewhere, and has not received a pardon therefor; or
- (f) has been convicted of an offence under any of the liquor laws, unless that offence, in the opinion of the licensing officer (but subject to any general or special directions of the Minister with regard thereto), does not affect such person's eligibility for a licence; or
- (g) is not ordinarily resident in Kenya,

nor in respect of any premises specified in a general or on-licence issued under the Liquor Licensing Act.

**9. Transfer or removal of licence**

Where a licensee sells, leases or otherwise disposes of the premises to which his licence relates, or where he desires to remove the business to which it relates to other premises, he may apply for the licence to be transferred or varied accordingly, and the provisions of sections 6 and 7, so far as applicable, shall have effect in respect of that application.

**10. Stockroom**

(1) A holder of a licence under this Act shall provide on the premises to which the licence relates a stockroom of such specifications as may be prescribed, for the storage of all methylated spirits which may from time to time be in or on those premises.

(2) The methylated spirits in a stockroom shall be clearly separated from other goods and so arranged as to facilitate inspection and checking, and there shall be maintained at all times on the premises and in or near the stockroom, so as to be readily available at all reasonable times, a stockbook in the prescribed form containing a full, clear, accurate and up-to-date account of all such spirits from time to time in or on the premises, and of their disposal.

(3) A holder of a licence under this Act who contravenes any of the provisions of this section shall be guilty of an offence.

[Act No. 5 of 2007, s. 5.]

**11. Prohibition of use of methylated spirits as a beverage or medicine**

Any person who—

- (a) prepares or attempts to prepare methylated spirits for use as a beverage or as a mixture with a beverage; or
- (b) supplies, sells or keeps or exposes for sale any such spirits, whether so prepared or not, as a beverage or mixed with a beverage; or
- (c) uses any such spirits or any derivative thereof in the preparation of any article or substance capable of being used wholly or partially as a beverage or internally as a medicine; or
- (d) sells or has in his possession any such article or substance in the preparation of which any such spirits or any derivative thereof has been used; or
- (e) except as permitted by the Minister and in accordance with any conditions imposed by him, purifies or attempts to purify any such spirits,

shall be guilty of an offence.

**12. Restriction on quantity of methylated spirits held**

Any person, other than the holder of a licence, who is at any one time in possession of a quantity of methylated spirits greater than one gallon shall, unless he has obtained the written permission of a licensing officer for such possession and has satisfied such reasonable conditions as may have been imposed on the permission being granted, be guilty of an offence.

**13. Appointment of investigating officers**

(1) The Minister may by notice in the *Gazette* appoint one or more persons to be investigating officers for the purposes of this Act, for Kenya or for any specified area thereof.

(2) Every licensing officer, and every police officer not below the rank of Inspector, shall have the powers of an investigating officer.

**14. Powers of inspection**

(1) An investigating officer may at any time enter upon any premises in respect of which a licence has been issued under this Act, or in or in respect of which he



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has reasonable cause to believe an offence under this Act or any rules made thereunder has been or is about to be committed, and may—

- (a) require the licensee or occupant to produce, either forthwith or at such time and place as may be specified by the investigating officer, any book, document or voucher which he is required by virtue of any of the liquor laws to keep, or which may otherwise relate to any methylated spirits then or recently in or on the premises;
- (b) search for, examine and take account of any methylated spirits therein and any books, documents or vouchers which may relate to methylated spirits;
- (c) take copies of any such book, document or voucher, or remove and detain it, if in his opinion it may afford evidence of an offence under any of the liquor laws;
- (d) remove and detain any spirit, still, container, vessel, receptacle, utensil or apparatus which in his opinion affords evidence of an offence under any of the liquor laws;
- (e) require the licensee or occupant to answer questions and give information relating to any spirits or to any book, document, voucher or other thing whatsoever relating to spirits, then or recently in or on the premises, or which he is required or allowed by virtue of any of the liquor laws to have in or on the premises;
- (f) require any container, vessel, receptacle or utensil in or on the premises to be opened;
- (g) take and retain without payment such samples as may be reasonably required by him for the proper performance of his duties.

(2) An investigating officer acting under this section may demand that the person residing or being in the premises shall allow him free entry thereto and afford him all reasonable facilities for a search therein, and if after notification of his authority and purpose entry cannot without unreasonable delay be so obtained the officer may without warrant enter the premises and search therein, and, if necessary in order to effect entry, break open any outer or inner door or window or other part of the premises.

(3) Before acting under this section an investigating officer (other than a police officer in uniform) shall, if required to do so, produce documentary evidence of his appointment.

(4) Before removing any article or spirit, an investigating officer acting under any of the provisions of paragraphs (c) and (d) of subsection (1) shall furnish the person in whose custody or possession the article or spirit was at the time of removal with a written receipt therefor.

**15. Obstruction of investigating officer, etc.**

Any person who obstructs, impedes, misleads or deceives, or fails to carry out any reasonable requirement of, or to answer proper questions made by, an investigating officer, licensing officer, or any police officer acting under this Act shall be guilty of an offence.

**16. Licences for bodies corporate**

A licence issued to a body corporate shall be issued in the name of that body to the secretary thereof and no transfer of the licence shall be necessary upon any change in the office of secretary, but any person for the time being holding that office shall be entitled to the privileges granted by, and shall be subject to the duties and liabilities imposed upon the holder of, the licence.

**17. Vicarious criminal responsibility**

(1) Any act which if done by an individual would be an offence under this Act or any rules made thereunder shall, if done by a body corporate, be an offence by every director, secretary and manager thereof unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

(2) If an offence under this Act or any rules made thereunder has been committed by a partner in a firm, every person who at the time of the commission of the offence was a partner in that firm, or was purporting to act in that capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

**18. Miscellaneous offences**

(1) Any person who—

- (a) breaks, destroys, conceals or otherwise disposes of any spirits, container, vessel, receptacle, utensil, book, document, voucher or other goods, materials or thing for the purpose of preventing or delaying any inspection or seizure thereof in pursuance of the provisions of this Act; or
- (b) makes any false entry, deletion or alteration in any book, document or voucher which he is required under or by virtue of this Act to keep,

shall be guilty of an offence.

**19. Cognizable offences**

Offences under sections 3, 4, 11, 12, 15 and 18 shall be cognizable to the police.

**20. General penalties**

(1) Any person who is guilty of an offence under this Act for which no fine or imprisonment is specially provided shall be liable—

- (a) for a first offence, to a fine not exceeding five thousand shillings;
- (b) for a second or subsequent offence, to imprisonment for a term not exceeding three years or to a fine not exceeding thirty thousand shillings, or to both such imprisonment and fine.

(2) On the conviction of a person licensed under this Act the court—

- (a) on a first conviction, may order the licence to be suspended or cancelled; and

- (b) on a second conviction, shall order the licence to be cancelled, and thereafter no licence under this Act shall be granted or transferred to that person except with the consent of the Minister.

**21. Certificate of Government Chemist**

At the hearing of any charge for an offence under this Act or any rules made thereunder, a certificate purporting to be signed by the Government Chemist shall be sufficient evidence of the facts stated therein unless the accused person requires that the Government Chemist be called as a witness.

[Act No. 28 of 1961, Sch.]

**22. Rules**

The Minister may make rules generally for the better carrying out of the provisions and purposes of this Act, and in particular for—

- (a) regulating the use or conversion of methylated spirits;
  - (b) regulating the procedure at appeals under section 7;
  - (c) prescribing fees;
  - (d) prescribing anything which this Act enables or requires to be prescribed.
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