

CHAPTER 335

THE TRADITIONAL BEER (LEVY) ACT

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CHAPTER 335

TRADITIONAL BEER (LEVY)

18 of 1964
69 of 1965
25 of 1969

An Act to provide for the imposition of a levy on traditional beer sold in certain establishments; to provide for the collection of the levy and for the keeping of books and the transmission of returns in relation thereto; to specify certain offences; and to provide for matters

incidental to or connected therewith.

[1st July, 1964]

1. This Act may be cited as the Traditional Beer (Levy) Act. Short title
(As amended by No. 25 of 1969)

2. In this Act, unless the context otherwise requires- Interpretation

"beer hall" means an establishment declared as such under section *three*;

"Controller" means the public officer appointed as such under section *four*;

"honey beer" shall have the meaning assigned to that expression by section *two* of the Customs and Excise Act; Cap. 322

"levy" means the traditional beer levy imposed by section *five*;

"month" means a calendar month;

"officer" means a public officer appointed under paragraph (*b*) of sub-section (1) of section *four*;

"proper officer" means the person appointed as such under sub-section (1) of section *six*, or, in the circumstances specified in sub-section (3) of section *six*, the person referred to in that sub-section;

"proprietor" means the person carrying on business or causing business to be carried on in a beer hall;

"sale" includes the supply of traditional beer free of charge-

(*a*) at any entertainment for which an entrance fee is charged or at which a collection is made; and

(*b*) by a proprietor to his employees;

"traditional beer" means-

(a) the drink which is brewed from grain or other vegetable matter and is commonly known as local beer, Lusaka beer, bwalwa, mowa, lwalwa, bucwala, bukoko or chibuku;

(b) honey beer; and

(c) such other intoxicating liquor as the Minister may, by statutory notice, prescribe.

(As amended by No. 25 of 1969)

3. The Minister may, by statutory notice, declare any establishment used for the retail sale of traditional beer to be a beer hall for the purposes of this Act. Minister may prescribe establishment

(As amended by No. 25 of 1969)

4. (1) The Minister may appoint- Appointment of Controller and officers

(a) a public officer to be Controller for the purposes of this Act; and

(b) such number of public officers as he may deem necessary for the purpose of carrying out the provisions of this Act.

(2) The Controller may authorise any officer to perform any act which may lawfully be performed by the Controller, and may withdraw any such authority.

5. (1) There shall be charged, levied, collected and paid at the rate set forth in the First Schedule a levy on all traditional beer sold at a beer hall. Imposition and recovery of levy

(2) The amount of the levy payable in pursuance of sub-section (1) shall be calculated in relation to the amount of traditional beer sold in each month, and the amount of the levy so calculated shall be payable by the proprietor concerned to the Controller on or before the twenty-

fifth day of the month following the month for which the levy is calculated.

(3) The amount of the levy payable as aforesaid shall be paid in such manner and at such place, or places, as the Controller may from time to time direct.

(4) The amount of the levy payable as aforesaid shall be deemed to be a debt due to the Government and may be sued for and recovered by civil action in any court of competent jurisdiction.

(5) Notwithstanding anything contained in any written law relating to courts, any amount payable under the provisions of this section shall be recoverable by action in any subordinate court of the first class having jurisdiction in respect of the person by whom such amount is payable.

(As amended by No. 25 of 1969)

6. (1) Every proprietor shall, for each beer hall of which he is proprietor, appoint a person in his employ to be a proper officer and shall notify the Controller of the name of the person so appointed:

Appointment of
proper officer

Provided that the same person may be appointed to be proper officer for more than one beer hall.

(2) Every proprietor who notifies the Controller of the name of a person appointed a proper officer for a beer hall under sub-section (1) shall forthwith cause to be affixed in a conspicuous place within the beer hall, and thereafter to be kept exposed therein, a notice as near as may be in the form set forth in the Second Schedule but which shall, in any event, be signed by the proprietor and shall state clearly the name of the person so appointed and the beer hall for which he is a proper officer.

(3) During any period when no proper officer has been appointed, or when the proper officer appointed is no longer in the employ of the proprietor, or when the Controller has not been notified of the name of the proper officer, then, for all beer halls of the proprietor concerned, the proper officer shall be-

(a) where the proprietor is a municipal council, the Town Clerk;

(b) where the proprietor is a township council or rural council, the secretary of the council;

(c) where the proprietor is a board of management of a township, the secretary to the board;

(d) where the proprietor is a company registered under the Companies Act, the secretary to the company; and Cap. 388

(e) in any other case, the proprietor.

(As amended by No. 69 of 1965)

7. (1) The proper officer shall, in respect of each beer hall for which he is proper officer- Books to be kept
and returns to be
rendered

(a) keep a book in which shall clearly be recorded in the English language an account of the quantity of traditional beer sold, used or otherwise disposed of in each month, the quantity of traditional beer on hand at the end of each month and the amount of the levy paid in respect of each month;

(b) transmit to the Controller with the amount of each levy paid by the proprietor, a correct and legible return, in duplicate, in the form approved by the Controller, of the quantity of traditional beer sold, used or otherwise disposed of in the month in respect of which the levy is paid, and the quantity of traditional beer on hand, at the end of that month;

(c) furnish the Controller or an officer with such information as he may require in relation to the operations of the beer hall.

(2) The Controller or any officer may, at all reasonable times, inspect the book referred to in paragraph (a) of sub-section (1) and make extracts therefrom, and the proper officer shall, on being required to do so by the Controller, or an officer, produce such book for inspection.

(As amended by No. 25 of 1969)

8. (1) In the event of-

Order by
Controller

(a) a proprietor failing to make payment of a levy in accordance with the provisions of section *five* on more than one occasion or failing to affix a notice in a conspicuous place within the beer hall in accordance with sub-section (2) of section *six*; or

(b) a second or subsequent conviction for an offence under section *nine* committed in connection with or in respect of the same beer hall; the Controller may, by order, direct that traditional beer shall not be sold in the beer hall concerned.

(2) An order made under this section shall be published in the *Gazette* and shall, subject to the provisions of sub-section (5), have effect from the date of such publication.

(3) A proprietor may appeal to the Minister against an order made under sub-section (1) within fourteen days from the date of publication in the *Gazette* of such order.

(4) The Minister may allow such appeal, in which case the order made by the Controller shall cease to have effect, or confirm the order of the Controller.

(5) An order made under sub-section (1) shall not have effect between the date of the making and the determination of any appeal against such order.

(6) An appeal under this section shall be made and conducted in such manner as may be prescribed.

(7) The decision of the Minister on an appeal shall be final and shall not be challenged in any proceedings whatsoever.

(As amended by No. 25 of 1969)

9. Any proper officer who-

Penalties for

- (a) fails to keep the book referred to in paragraph (a) of sub-section (1) of section *seven*, or fails to produce such book when required by the Controller or an officer to do so; failure to keep books
- (b) fails to make in such book any entry required to be made therein;
- (c) erases or obliterates any entry in such book;
- (d) mutilates or tears from such book;
- (e) by himself, or through the agency, or with the assistance of any other person, disposes, conceals or makes away with such book;
- (f) refuses to allow an officer at any time to inspect such book, or obstructs or hinders him in such examination;
- (g) neglects or refuses to furnish the return referred to in paragraph (b) of sub-section (1) of section *seven*;
- (h) knowingly sends in a false return; or
- (i) neglects or refuses to give information as to the operations of the beer hall concerned when required by the Controller or an officer to do so:

shall be guilty of an offence and shall be liable on a first conviction to a fine not exceeding one thousand and five hundred penalty units and on a subsequent conviction to a fine not exceeding three thousand penalty units.

(As amended by Act No. 13 of 1994)

10. (1) The Controller or an officer may at any time enter a beer hall for the purpose of preventing or detecting the commission of any offence against this Act or for the better carrying out of the provisions of this Act. Right of Controller or officer to enter beer hall

(2) If any person, himself or by any person in his employ or acting with his consent, obstructs or fails to admit the Controller or an officer who demands entry to a beer hall in pursuance of this section, he shall be guilty of an offence and shall be liable, on a first conviction, to a fine not exceeding one thousand and five hundred penalty units and on a subsequent conviction to a fine not exceeding three thousand penalty units.

(As amended by Act No. 13 of 1994)

11. Any person who sells traditional beer in a beer hall in contravention of an order made under section *eight* shall be guilty of an offence. Selling traditional beer contrary to

offence and liable on conviction to a fine not exceeding three thousand an order penalty units or to imprisonment for a period not exceeding twelve months, or to both.

(As amended by Acts No. 25 of 1969 and No. 13 of 1994)

12. The Minister may, by statutory instrument, make regulations for Regulations carrying this Act into effect and for prescribing anything which may be prescribed.

FIRST SCHEDULE

(Section 5)

RATES OF LEVY

Where the price per gallon of traditional beer sold at a beer hall on the 1st January, 1964, was-

- (a) 20n or under, levy shall be charged and imposed pursuant to section 5 at 4n per gallon;
- (b) over 20n but not exceeding 21n, levy shall be charged and imposed pursuant to section 5 at 3n per gallon;
- (c) over 21n but not exceeding 22n, levy shall be charged and imposed pursuant to section 5 at 2n per gallon;
- (d) over 22n but not exceeding 23n, levy shall be charged and imposed pursuant to section 5 at 1n per gallon.

(As amended by No. 25 of 1969)

SECOND SCHEDULE

(Section 6)

NOTICE OF APPOINTMENT OF PROPER OFFICER FOR BEER HALL

This is to certify that in accordance with the provisions of section 6 of the Traditional Beer (Levy) Act I

(name)

as proprietor have appointed

(name)

to be the proper officer for

(name)
beer hall.

Proprietor

(As amended by No. 25 of 1969)

SUBSIDIARY LEGISLATION

SECTION 3-DECLARATION OF BEER HALLS Notices by the Minister

Government Notices

334 of 1964

368 of 1964

Statutory

Instruments

45 of 1965

279 of 1965

326 of 1965

377 of 1965

404 of 1965

155 of 1966

199 of 1966

339 of 1966

380 of 1966

381 of 1966

18 of 1967

121 of 1967

It is hereby declared that the establishments set out in the Schedule shall be beer halls for the purposes of the Act.

