

THE UNITED REPUBLIC OF TANZANIA



No. 62 OF 1966

In discharge of the functions of the office of the President

I ASSENT,

BMK Jayaw
Second Vice-President

29TH DECEMBER, 1966

An Act to make provision for the Licensing of the Manufacture of Moshi, to regulate the Sale and Distillation of Moshi and to make provision for other purposes connected therewith

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ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY

1. This Act may be cited as the Moshi (Manufacture and Distillation) Act, 1966, and shall come into operation on such date as the Minister may by notice in the *Gazette* appoint.

Short title and commencement Interpretation

2. In this Act, unless the context otherwise requires-
"buying post" means a buying post established by the Minister under section 15;

"distill" includes redistill;

"distiller" means a person holding a valid licence to manufacture spirits under this Act by distillation of moshi; and "distillery" means his factory;

"licensee" means any person who has been granted J? licence under this Act to manufacture moshi;

"licensing authority" means a local authority having the power to grant licences to manufacture moshi;

"local authority" means where the area is a city the city council, where the area is a municipality the municipal council, where the area is a township the town council and where the area is that of a district council the district council;

"Minister" in Parts I, II, III and V means the Minister for the time being responsible for Industries and in Part IV means the, Minister for the time being responsible for Finance;

"moshi" means the distilled liquor commonly known as moshi, nipa or piwa and containing more than one per centum, by weight of absolute alcohol, and spirits, potable or otherwise, manufactured by distillation of moshi; but does not include any potable spirit manufactured by a distiller under a licence granted, under section 19;

"spirits" means potable spirits, blended from a specially prepared alcoholic concentrate and pure neutral spirit produced by distillation of moshi, the resultant blend, after a suitable period of maturing, being reduced or let down with treated water to drinking strength;

"supervisor" means a person appointed as a supervisor under section 16;

"tax" means the tax on spirits payable in accordance with the provisions of Part IV;

"wash" means the fermented liquor from which moshi is manufactured by distillation.

PART II

MANUFACTURE AND SALE OF MOSHI

Moshi to be manufactured only under licence

3. (1) No person shall manufacture moshi save under a licence granted to him by a licensing authority.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding five years.

Minister's power to control manufacture of moshi

4.-(1) The Minister may, by order published in the *Gazette*, prescribe-

- (a) the area within which licences to manufacture moshi may be granted;
- (b) the number of licences which may be granted in any such area;
- (c) the maximum quantity of moshi which may be manufactured by any licensee in any such area; and
- (d) the agricultural products which may be used in the preparation of the wash to be used in the manufacture of moshi in any such area.

(2) Where the maximum quantity of moshi which may be manufactured by a licensee in any area has been prescribed the Minister may by order published in the *Gazette* prescribe a different maximum quantity for any licensee or class of licensees in any such area.

Licensing Authority

5. Where under the provisions of section 4 an area is prescribed to be an area within which licences for the manufacture of moshi may be granted, the licensing authority for such area shall be the local authority having jurisdiction in respect thereof.

Disqualification for obtaining licence

6. A licence to manufacture moshi shall not be granted to any person who-

- (a) has not attained the apparent age of twenty-one years; or

- (b) has been convicted of any offence under this Act; or
- (c) is an undischarged bankrupt having been adjudicated bankrupt by any court of competent jurisdiction in the United Republic or, in the case of a corporation, the corporation is in liquidation or has been wound up or in respect of which a winding up order made by any court of competent jurisdiction in the United Republic is subsisting.

7. A licensing authority may refuse to grant a licence to manufacture moshi to any person and such refusal shall be final and shall not be questioned in any court:

Licensing authority's refusal to grant licence to be final

Provided that the person aggrieved by the refusal of a licensing authority to grant a licence may appeal to the Minister and the Minister may, where he is satisfied that such refusal was without sufficient cause, reverse the decision of the licensing authority and direct the licensing authority to grant a licence to such person.

8. Every licence for the manufacture of moshi shall expire on the thirty-first day of December next following the date of the grant of such licence.

9. Every licence to manufacture moshi shall be in the prescribed form and shall specify-

Contents of a licence

- (a) the name and address of the person to whom it is granted;
- (b) the premises where moshi may be manufactured,
- (c) the maximum quantity of moshi which the holder of the licence shall be entitled to manufacture every month;
- (d) the agricultural products which the holder of the licence may use in the preparation of the wash;
- (e) the buying post at which the holder of the licence shall offer his moshi for sale;
- (f) such other matters as may be prescribed.

10. It shall be a condition of every licence that the holder thereof shall-

Conditions to be observed by licences

- (a) use such equipment for the manufacture of moshi as may be prescribed;
- (b) not purchase or acquire in any way any quantity of moshi from any other person;
- (c) not sell or otherwise dispose of any quantity of moshi save to a distiller at the buying post specified in his licence;
- (d) not manufacture moshi in any one month in excess of the quantity specified in his licence;
- (e) not, for the purpose of the manufacture of moshi, make use of any wash other than wash made from agricultural products specified in his licence;
- (f) not manufacture moshi at any premises other than the premises specified in his licence;

(g) keep such records of his manufacture and disposal of moshi as may be prescribed.

Breach of condition to be an offence
Restriction on access to portion of premises where moshi manufactured or stored

11. Any licensee who fails to comply with any of the conditions of his licence specified in section 10 shall be guilty of an offence.

12.-(1) A licensee shall not permit any person other than-

(a) where the licensee is a natural person, the members of his family residing with him in the premises in respect of which the licence has been granted;

(b) where the licensee is a corporation, any member of the corporation and the members of the family of any member of the corporation residing with such member in the premises in respect of which the licence has been granted;

(c) any person authorized under this Act to enter upon any premises in which moshi may be manufactured,

access to any portion of the premises where the manufacture of moshi may for the time being be taking place or where any moshi may for the time being be stored.

(2) Any licensee who contravenes the provisions of subsection (1) shall be guilty of an offence.

Revocation of licence by licensing authority

13. A licensing authority may revoke a licence to manufacture moshi granted to any licensee who is convicted of any offence under this Act or under the Local Liquor Ordinance or of any offence, under any other written law whatsoever, relating to the manufacture, sale or consumption of any liquor or spirit:

Provided that where such conviction is set aside by a superior court and a conviction for any other offence under this Act or Local Liquor Ordinance or a conviction for any other offence relating to the manufacture, sale or consumption of any liquor or spirit is not substituted therefor, the licensing authority may, subject to any direction to the contrary given by the Minister, restore the licence to the licensee if the period of the validity of the licence has not in the meantime expired.

Revocation of licence by Minister

14.-(1) The Minister may at any time, and without assigning any reason for doing so, revoke a licence to manufacture moshi granted to any licensee if in his opinion such revocation is in the public interest.

(2) Where the Minister revokes a licence under subsection (1) such revocation shall be final and shall not be questioned in any court.

(3) Where the Minister has revoked a licence under subsection (1) the person to whom such licence was granted shall not be granted another licence to manufacture moshi without the prior consent of the Minister.

Buying posts

15.-(1) The Minister may, by notice in the *Gazette*, declare such places as he deems fit to be the buying posts where moshi manufactured by licensees may be offered for sale to distillers.

(2) No licensee shall sell, offer for sale or expose for sale any quantity of moshi at any place other than at a buying post.

(3) No distiller shall purchase or offer to purchase any quantity of moshi save at a buying post.

(4) Any person who contravenes the provisions of subsection (2) or subsection (3) shall be guilty of an offence.

16. The Minister shall appoint public officers to act as supervisors at buying posts. Supervisors

17. The following procedure shall be followed at every buying post when any quantity of moshi is offered for sale by a licensee: - Procedure at sale of moshi

- (a) the supervisor shall measure the alcoholic content of the moshi;
- (b) if the alcoholic content of the moshi is below the minimum prescribed rate the supervisor shall forthwith confiscate the moshi and destroy the same in the prescribed manner;
- (c) in any other case, the supervisor shall assess the minimum price of the moshi in accordance with the prescribed minimum rates;
- (d) the distiller shall buy all the moshi offered for sale and which has not been confiscated under paragraph (b) and shall pay therefor a price not less than the minimum price declared by the supervisor;
- (e) the distiller shall, at the close of the sale at the buying post, make arrangements for the immediate removal therefrom of all the moshi purchased by him.

18. A licensee shall not be entitled to any compensation for any quantity of moshi confiscated by a supervisor under section 17.

No compensation payable for confiscated moshi

PART III

DISTILLATION OF MOSHI

19. The Minister may grant any person a licence to manufacture spirits by distillation of moshi.

Licence to distill moshi

20. It shall be a condition of every distiller's licence granted under section 19-

Conditions of distiller's licence

- (a) that the distiller shall purchase moshi from licensees only and in accordance with the provisions of this Act;
- (b) that the distiller shall not refuse to purchase any quantity of moshi offered for sale by a licensee at a buying post and not confiscated by a supervisor under section 17;
- (c) that the distiller shall pay a licensee for the moshi purchased from him a price not less than the minimum price prescribed for moshi of that quality;
- (d) that the distiller shall not manufacture spirits from any material other than moshi acquired in accordance with the provisions of this Act;
- (e) that the spirits produced by the distiller shall conform to the prescribed standards-

	(f) that the distiller shall comply with all such requirements relating to the manufacture, bottling and sale of spirits as may be prescribed;
	(g) that the distiller shall pay such taxes on the spirits manufactured and sold or otherwise supplied by him to any person as are provided for in Part IV.
Breach of condition to be, an offence , Duration of licence	21. Any distiller who fails to comply with any of the conditions of his licence specified in section 20 shall be guilty of an offence.
	22. A distiller's licence shall remain valid until revoked in accordance with the provisions of section 23.
Revocation of distiller's licence	23. The Minister may revoke a distiller's licence- (a) if the distiller is convicted of an offence under this Act; or (b) if the Minister is satisfied that it is in the public interest to revoke the licence:
	Provided that a distiller's licence shall not be revoked on the ground only of the public interest for a period of five years from the date of its grant.

PART IV

TAX PROVISIONS

Tax on spirits	24. Subject to the provisions of this Part a tax shall be charged, levied and paid on spirits, manufactured by a distiller and sold or otherwise supplied to any person.
Rate of tax	25. The Minister may, by order published in the <i>Gazette</i> , specify the rate of tax to be charged, levied and paid under this Part and any such order may specify different rates in respect of different categories of spirits.
Tax to be debt due to the Republic Exemptions	26. The tax payable under this Part shall be a debt due to the Republic. 27. The Minister may by order published in the <i>Gazette</i> exempt from payment of the tax under this Part- (a) any category of spirits; (b) the spirits or any category of spirits sold or supplied to any specified person or class of persons.
Regulations relating to tax	28. The Minister may make regulations for the better carrying out of the provisions and purposes of this Part and without prejudice to the generality of the foregoing may make regulations (a) for the assessment and collection of the tax; (b) for the appointment of public officers responsible for the collection of, the tax; (c) for, the submission of returns of the production and sale of spirits;

- (d) providing for the storage of all spirits manufactured in a distillery and prescribing measures to ensure that no quantity of any spirit is removed from a distillery or warehouse for the purpose of sale or supply to any person without the tax having been first paid in respect thereof.

PART V
MISCELLANEOUS

29. Any person who sells or offers or exposes for sale any moshi shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding five years:

Unlawful
sale of
moshi

Provided that this section shall not apply to any sale or offer or exposure for sale of moshi by a licensee to a distiller.

30. Any person, other than a licensee or a distiller, who has moshi in his possession shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding five years.

Unlawful
possession
of moshi

31. Any person who consumes moshi shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding five years.

Unlawful
consumption
of moshi

32.- (1) It shall be lawful for any police officer not below the rank of Inspector or any officer of a licensing authority duly authorized the licensing authority in that behalf to enter on and inspect any premises in respect of which a licence to manufacture moshi has been granted, or any distillery in respect of which a licence to distill moshi has been granted, for the purpose of preventing or detecting an offence or observing the state of repair and sanitary condition of the premises or distillery and the general conduct of the business therein.

Power to
enter and
inspect
licensed
premises

(2) Any licensee or distiller who refuses to admit any such police officer or officer of a licensing authority to such premises or distillery, as the case may be, shall be guilty of an offence.

33.-(1) Any magistrate may, if satisfied on oath that there is reasonable ground to believe that moshi is being unlawfully manufactured, sold, exposed or offered for sale, or stored or is present at any place within his jurisdiction, grant a warrant under his hand, whereby it shall be lawful for any police officer, not below the rank of Inspector, at any time or times within one month from the date of the warrant, to enter, if need be by force, the place named in the warrant, and every part thereof, and examine and search the same for moshi, and seize and remove and take before a magistrate any moshi found therein which there is reasonable ground to suppose is in the, place for the purposes of unlawful sale at that or any other place, or has been unlawfully manufactured, or is unlawfully stored or possessed, and the vessels containing moshi.

Search
warrant for
detection
of moshi
sold or
kept
contrary to
law

(2) This section shall apply to moshi in the process of manufacture and to material and implements used or intended to be used for the manufacture of moshi in the like manner as it applies to moshi.

General penalty	<p>34.-(1) Any person guilty of an offence under this Act, shall, unless some other penalty has been prescribed, be liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.</p> <p>(2) All offences against this Act are hereby declared to be cognizable offences. ,</p>
Forfeiture	<p>35. Where any person is convicted of any offence under this Act the court may order that the moshi in respect of which the offence was committed together with the vessels which contained the moshi and, in the case of conviction for unlawful manufacture of moshi, the materials and implements used for the manufacture of moshi, shall be forfeited to the Government.</p>
Burden of proof	<p>36. In any proceedings under this Act the burden of proving that the manufacture, sale, supply, offer or exposure for sale, or possession of moshi was lawful shall be on the person alleging the same.</p>
Regulations	<p>37. The Minister may make regulations for the better carrying out of the provisions and purposes of this Act save Part IV thereof and without prejudice to the generality of the foregoing may make regulations-</p> <ul style="list-style-type: none"> (a) prescribing the fees to be charged for licences granted under this Act; (b) prescribing forms for applications for a licence to manufacture moshi and a licence to distill. moshi; (c) providing for the maintenance and condition of premises where moshi is being manufactured or stored; (d) prescribing anything which under the provisions of this Act may be prescribed.
Exemption from the East African Excise Management Act, 1952	<p>38. The provisions of the East African Excise Management Act, 1952 of the Common Services Organization shall not apply-</p> <ul style="list-style-type: none"> (a) to the manufacture of moshi or distillation of moshi under a licence granted under this Act; (b) to any distillery at which only moshi is distilled under a licence granted under this Act; (c) to any moshi or spirit manufactured under a licence granted under this Act.
Act No. 13 of 1952	
Amendment of definition "local liquor" in Cap. 77	<p>39. Section 4 of the Local Liquor Ordinance is hereby amended in the definition "local liquor" by deleting the commas, words and symbols ", the distilled liquor commonly known as "moshi" and all liquors (other than beer, spirits or wines to which the East African Excise Management Act applies)" and substituting therefor the words, commas and symbols "and all liquors (other than beer, spirits or wines to which the East African Excise Management Act, 1952 applies or the distilled liquor commonly known as "moshi")",</p>

40. The Local Liquor (Moshi) Order, 1941 is hereby revoked.

Revocation
of Moshi
Order
Cap. 77
Supp. 58
p. 24

41. The Excise Tariff Ordinance is hereby amended in the First Schedule by inserting immediately after the word "spirits" which occurs in item 6 the words "other than spirits manufactured by distillation of moshi by a distiller licensed under the Moshi (Manufacture and Distillation) Act, 1966".

Amendment
of Cap. 332

Passed in the National Assembly on the twenty-first day of December, 1966.



Acting Clerk of the National Assembly