

Mr. Nesterhuizen

OFFICIAL GAZETTE

EXTRAORDINARY
OF SOUTH WEST AFRICA.



BUITENGEWONE OFFISIELE KOERANT

UITGawe OP GESAG.

VAN SUIDWES-AFRIKA.

PUBLISHED BY AUTHORITY.

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WINDHOEK

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The following Draft Ordinances, which will be introduced during the next Session of the Legislative Assembly are published for general information.

J. NESER,
Secretary for South West Africa.
Administrator's Office,
Windhoek.

Die volgende Ontwerpordonnansies, wat gedurende die volgende Sessie van die Wetgewende Vergadering voorgelê sal word, word vir algemene inligting gepubliseer.

J. NESER,
Sekretaris van Suidwes-Afrika.
Kantoor van die Administrateur,
Windhoek.

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DRAFT ORDINANCE

To amend the law relating to the sale of intoxicating liquor.

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, as follows:—

1. Section *three* of the Liquor Licensing Proclamation, 1920 (Proclamation No. 6 of 1920), as amended from time to time, (hereinafter called the principal Proclamation), is hereby amended by the addition of the following definition:—

“sell” in addition to its ordinary meaning includes keeping, exposing, or delivering for sale, or authorising, directing or allowing sale, or bartering or exchanging, or possessing for purposes of sale.

2. Section *four* of the principal Proclamation is hereby amended by the insertion after the word “any” where it occurs for the second time, of the words “Conditions or”.

3. Section *six* of the Principal Proclamation is hereby amended by the addition of the following item:—

“9. Special brewers wholesale depot licence.”

4. Section *seven* of the principal Proclamation is hereby amended—

(a) by the deletion in sub-paragraph (a) of paragraph (2) of the words “or Christmas Day” and the substitution therefor of the words “or Ascension Day, or Day of the Covenant or Christmas Day”;

(b) by the deletion in sub-paragraph (c) of paragraph (3) of the words “or Christmas Day” and the substitution therefor of the words “or Ascension Day, or Day of the Covenant or Christmas Day”;

(c) by the insertion in paragraph (4) after the words “Good Friday” of the words “or Ascension Day or Day of the Covenant”; and

(d) by the deletion in paragraph (6) of the words “or Christmas Day” and the substitution therefor of the words “or Ascension Day, or Day of the Covenant, or Christmas Day”; and

(e) by the addition of the following paragraphs:—

“(7) A special brewers wholesale depot licence shall authorise any brewer holding a Special Brewers Wholesale Licence under the Brewers and Distillers Licences Duty Proclamation, 1924, as amended, to sell or supply the product of his manufacture in quantities of not less than five gallons if in cask or two gallons if in bottle to the general public from any depot, but not for consumption on the premises. Such depot shall not be managed or controlled by any holder of a retail licence under this Proclamation, or any amendment thereof, and such depot shall not be situated on any premises carrying a retail licence under the said Proclamation. Subject to section twenty-nine of this Ordinance the provisions of sub-paragraphs (b), (c) and (d) of paragraph (3) of this section in regard to bottle licences shall *mutatis mutandis* apply to special brewers wholesale depot licences, and the further provisions

ONTWERPORDONNANSIE

Ter wysiging van die wet op die verkoop van sterk drank.

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika VERÓRDEN:—

1. Artikel *drie* van die „Drank Licentie Proklamasie, 1920” (Proklamasie 6 van 1920), soos van tyd tot tyd gewysig, (hierna genoem „die hoofproklamasie”), word hierby gewysig deur die onderstaande woordbepaling by te voeg:—

„Verkoop” benewens sy gewone betekenis ook aanhou, uitstal of aflewering fer verkoop, of magtiging, opdrag of verlof tot verkoop, of ruil of omruil, of besit ter verkoop.”

2. Artikel *vier* van die hoofproklamasie word hierby gewysig deur na die woord „voorrechten” in die vierde reël daarvan die woorde „of voorwaarden” in te voeg.

3. Artikel *ses* van die hoofproklamasie word hierby gewysig deur die onderstaande hoof by te voeg:—

„9. Spesiale groothandel-dépôlisensie vir bierbrouers.”

4. Artikel *sewe* van die Hoofproklamasie word hierby gewysig—

(a) deur die woord „Kerstmisdag” in subparagraph (a) van paraagraaf (2) te skrap, en te vervang met die woorde „Hemelvaartdag, of Geloftedag, of Kersdag”;

(b) deur die woord „Kerstmisdag” in subparagraph (c) van paraagraaf (3) te skrap, en te vervang met die woorde „Hemelvaartdag, of Geloftedag, of Kersdag”;

(c) deur die woorde „of Hemelvaartdag, of Geloftedag” in te voeg na die woorde „Goeie Vrydag” in paraagraaf (4);

(d) deur die woord „Kersdag” in paraagraaf (6) te skrap, en te vervang met die woorde „of Hemelvaartdag, of Geloftedag, of Kersdag”; en

(e) deur die onderstaande paragrafe by te voeg:—

„(7) 'n Spesiale groothandel-dépôlisensie vir bierbrouers magtig enige bierbrouer wat 'n spesiale groot-handellicensie hou ingevolge die Brouwers en Distilleerders Licentie Belasting Proklamasie 1924, soos gewysig, om sy eie vervaardigde produk in hoevelhede van minstens vyf gelling waar dit in 'n vat is, of minstens twee gelling waar dit in 'n bottel is, uit enige dépôt aan die algemene publiek te verkoop, maar nie ter verbruik op die perseel nie. Sodanige dépôt mag nie bestuur of beheer word deur 'n houer van 'n kleinhandellicensie ingevolge hierdie Proklamasie of 'n wysiging daarvan nie, en sodanige dépôt mag nie bestuur op 'n perseel wat in kleinhandellicensie ingevolge genoemde Proklamasie dra nie. Behoudens die bepaling van artikel negen-en-twintig van hierdie Ondonnansie is die bepaling van sub-paragrafe (b), (c) en (d) van paraagraaf (3) van hierdie artikel ten opsigte van bottellicensies

of this Proclamation or any amendment thereof relating to sales under a bottle licence and all the obligations and disabilities of and penalties upon the holders of bottle licences shall apply in so far as they can be applied in respect of sales of liquor by the holder of a special brewers wholesale depot licence for consumption off the licensed premises authorised in terms of this paragraph and in respect of the licensee of such premises, and the licensing court may, in respect of such sales and licensee, exercise all such powers as it may exercise in respect of a bottle licence in so far as these powers can be exercised in relation to the product of the manufacture of a brewer of beer."

(8) Where the conditions of a retail or light liquor licence authorise the sale of liquor for consumption off the licensed premises, all the provisions of this Proclamation, as amended from time to time, relating to sales under a bottle licence and all the obligations and disabilities of and penalties upon the holders of bottle licences shall apply in respect of the said sales of liquor for consumption off the licensed premises, authorised as aforesaid and in respect of the licensee of such premises, and the licensing court may, in respect of such sales and licensee, exercise all such powers as it may exercise in respect of a bottle licence: Provided that notwithstanding anything in sub-paragraph (b) of paragraph (3) contained such sales of liquor for consumption off the licensed premises may take place from the same room or rooms as sales of liquor for consumption on the licensed premises unless the licensing court determine otherwise: Provided further that nothing therein contained shall be construed as imposing upon any holder of a retail or light liquor licence who is authorised by the conditions of his licence to sell liquor for consumption off the licensed premises, any liability for the payment of an annual licence fee which is payable in respect of a bottle licence."

5. The following sections are hereby substituted for section twenty-six of the principal Proclamation:-

Licensing courts constituted. 26. (1) Courts for the consideration and determination of applications for or relating to the granting, renewal, transfer, removal, ratification of temporary transfers, ratification of removal of the following licences—

- (a) wholesale;
- (b) retail;
- (c) bottle;
- (d) club;
- (e) light liquor; and
- (f) special brewers wholesale depot,

and for the consideration and determination of applications for a conditional authority in terms of section thirty-five bis, are hereby constituted and shall be held in and for each district of the Territory: Provided that all such applications for or relating to retail or light liquor licences in respect of railway refreshment cars on any railway line between Usakos and Outjo, Tsumeb or Grootfontein, shall be considered by the licensing court for the district of Otjiwarongo, and all applications for such licences in respect of any other railway refreshment cars shall be considered by the licensing court for the district of Windhoek.

(2) Every court constituted under sub-section (1) shall consist of—

- (a) the magistrate, or in his absence the acting magistrate, or if one has not been appointed, the assistant magistrate; and
- (b) two other members to be appointed by the Administrator.

(3) The member of the court mentioned in paragraph (a) of sub-section (2) shall be the chairman of the court and preside at every meeting thereof.

mutatis mutandis van toepassing op spesiale groot-handel-dépôtlisensies vir bierbrouers, en geld die verdere bepalings van hierdie Proklamasie of 'n wysiging daarvan met betrekking tot verkoop ingevolge 'n bottellicensie en al die verpligtings en onbevoegdhede van die houers van bottellisensies, en die strawwe waaran hulle onderhewig is, vir so ver moontlik die verkoop van drank deur die houer van 'n spesiale groot-handel-dépôtlisensie vir bierbrouers ter verbruik buite die gelisencierde perseel gemagtig ingevolge hierdie paragraaf en die houer van sodanige perseel, en die lisensiohof kan ten opsigte van sulke verkoop en licensiehouer al die bevoegdhede wat hy ten opsigte van 'n bottellicensie besit, uiteenfan vir sover hierdie bevoegdhede uitgeoefen kan word met betrekking tot die vervaardigde produk van 'n bierbrouer."

(8) Waar die voorwaarde van 'n kleinhandel- of ligte-drunkliscensie die verkoop van drank ter buiteverbruik magtig, geld al die bepalings van hierdie proklamasie, soos van tyd tot tyd gewysig, betreffende verkoop ingevolge 'n bottellicensie, asook al die verpligtings en onbevoegdhede en strawwe waaran die houers van bottellisensies onderhewig is ten opsigte van die bedoelde drunkverkoop ter buiteverbruik en die betrokke licensiehouer wat soos voormalig gemagtig is, en die lisensiohof kan betreffende sodanige verkoop en licensiehouer al die bevoegdhede uiteenfan wat hy betreffende 'n bottellicensie kan uitgeoefen: Met dien verstande dat die bepalings van sub-paragraaf (b) van paragraaf (3) ten spyte sodanige drunkverkoop ter buiteverbruik in dieselfde vertrek(-ke) kan geskied as drunkverkoop ter verbruik op die perseel, tensy die lisensiohof egter anders beslis: Met dien verstande voorts dat geen bepaling daarvan enige houer van 'n kleinhandel- of ligte-drunkliscensie wie se lisensie-voorwaarde hom magtig om drank ter buiteverbruik te verkoop, vir die jaarlike lisensiegeld wat vir 'n bottellicensie betaalbaar is, aanspreklik maak nie."

5. Artikel ses-en-twintig van die hoofproklamasie word hierby vervang met die onderstaande artikels:—

Instelling van Lisensienewoe. 26. (1) Howe ter oorweging van, en beslissing oor, aansoek om, of in verband met, die toekenning, hernuwing, oordrag, verplaas, bekragting van tydelike oordrag, bekragting van verplaas van die onderstaande lisensies—

- (a) groot-handellisensies;
- (b) kleinhandellisensies;
- (c) bottellisensies;
- (d) klublisensies;
- (e) ligte-drunkliscensies; en
- (f) spesiale groot-handel-dépôtlisensies vir bierbrouers;

en ter oorweging van, en beslissing oor, aansoek om voorwaardelike magtiging ingevolge artikel vyf-en-dertig bis, word hierby ingestel en moet in en vir elke distrik van die Gebied sitting hou: Met dien verstande dat elke sodanige aansoek om, of in verband met, kleinhandel- of ligte-drunkliscensies vir spoorwegververswaens op enige spoorlyn tussen Usakos en Outjo, Tsumeb of Grootfontein, oorweeg moet word deur die lisensiohof vir die distrik Otjiwarongo, en dat elke aansoek om sodanige lisensies vir enige ander spoorwegververswaens oorweeg moet word deur die lisensiohof vir die distrik Windhoek.

(2) Elke hof wat ingevolge sub-artikel (1) hiervan samgestel word, bestaan uit —

(a) die magistraat, of by sy afwesigheid, die waarnemende magistraat, of as daar geen waarnemende magistraat aangestel is nie, die assistent-magistraat; en

(b) nog twee lede wat deur die Administrateur aangestel word.

(3) Die lid van die hof wat in paragraaf (a) van sub-artikel (2) genoem word, is voorzitter van die hof, en sit by elke sitting daarvan voor.

(4) The members of the court appointed in terms of paragraph (b) of sub-section (2) shall receive such remuneration and allowances as may be determined by the Administrator.

Provision where new district constituted.

26bis. (1) In the event of the Administrator in the exercise of any power vested in him detaching any portion of a district for the purpose of creating a new district or to form part of another district, the licensing court of such first-mentioned district shall from the date of such detachment, cease to have jurisdiction in the detached portion of the first-mentioned district, but all licences issued, all conditions imposed and all things done under the authority of this Proclamation in such portion shall remain of force and effect as if no such detachment had taken place.

(2) In the event of the Administrator in the exercise of any power vested in him creating any new district, a licensing court for such district shall forthwith be constituted in manner provided in section twenty-six. The first members of such court appointed under paragraph (b) of sub-section (2) of section twenty-six shall hold office from the date of their appointment until the last day of December next ensuing.

General disqualification for membership of court.

26ter. (1) The following persons shall be disqualified for appointment or if appointed, from sitting as members of a licensing court:—

- (a) The holder of, or applicant for, any licence for the sale of intoxicating liquors;
- (b) any brewer or distiller;
- (c) any person engaged in making wine or spirits for sale;
- (d) any spouse, partner, agent or employee of any person described in paragraph (a), (b) or (c);
- (e) any officer or agent of any partnership or association of persons or society interested in the sale or the prevention of the sale of intoxicating liquor, and any person who holds, or during the preceding period of three years has held, an official position in an association or society having as its main object the suppression or promotion of the liquor trade;
- (f) any person employed directly or indirectly as an agent for the purpose of making any application to a licensing court for any other person, or any partner of any person so employed as an agent;
- (g) any person who is a director, agent, manager or employee of, or a partner in, any business, trade or calling carried on upon any licensed premises or the owner, lessor, or lessee of or the holder of any mortgage bond upon such premises, or upon any land in respect of which an application is made under section thirty-five bis;
- (h) any un-rehabilitated insolvent;
- (i) any person who, within the Territory 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 has not received a free pardon therefor;
- (j) the chairman or the member of a committee or an officer of any club in respect of which a liquor licence is held within the district in which the court has jurisdiction.
- (k) The fact that a person is a member of a club holding a club liquor licence shall not of itself disqualify him from being a member of a licensing court.

(3) No member of a court shall take his seat at any annual meeting thereof unless he has, not more than seven days previously, signed

Wanneer nuwe distrik gestig word.

(4) Die lede van die hof wat ingevalle paraagraaf (b) van sub-artikel (2) aangestel word, ontvang sodanige besoldiging en toeslae soos deur die Administrateur mag bepaal word.

26bis. (1) Wanneer die Administrateur by die uitvoering van sy bevoegdhede 'n deel van 'n distrik afsonder om 'n nuwe distrik te stig of om 'n deel van 'n ander distrik uit te maak, dan verval die bevoegdheid dat die lisensiehof van cersgenoemde distrik van die dag af waarop die afsondering geskied in die afgesonderte deel van cersgenoemde distrik, maar alle uitgerekte lisensies, alle gestelde voorwaarde en alle verrigtinge kragtens hierdie Proklamasie in daardie deel, bly van krag asof die afsondering nie plaasgevind het nie.

(2) Wanneer die Administrateur by die uitvoering van sy bevoegdheede 'n nuwe distrik stig, moet daar onverwyld 'n lisensiehof vir daardie distrik ingestel word soos artikel ses-en-twintig bepaal. Die eerste lede van 'n hof aangestel ingevalle paraagraaf (b) van sub-artikel (2) van artikel ses-en-twintig beklee hulle amp van die dag van hulle benoeming tot die laaste dag van die daaropvolgende Desember.

Algemene onbevoegdheid om lid van hof te wees.

26ter. (1) Die volgende persone is onbevoegd om benoem te word of indien benoem, om sitting te neem as lede van 'n lisensiehof —

- (a) Die houer van, of aansoeker om, 'n lisensie vir die verkoop van sterk drank;
- (b) 'n bierbrouer of drankstoker;
- (c) iemand wat die vervaardiging van wyn en spiritualieë ter verkoop beoefen;
- (d) 'n eggenoot, vennoot, agent of dienaar van iemand vermeld in paraagraaf (a), (b) of (c);
- (e) 'n beample of agent van 'n vennootskap of vereniging van persone of genootskap wat belang het by die verkoop of by die verhindering van die verkoop van sterk drank, en iemand wat 'n offisiële betrekking bekle of gedurende die voorafgaande drie jaar bekle het in 'n vereniging of genootskap wat die onderdrukking of bevordering van die drankhandel as sy hoofdoel beskou;
- (f) iemand wat direk of indirek as agent opdrag ontvang het om by 'n lisensiehof namens iemand anders enige aansoek in te dien of 'n vennoot van iemand wat aldus opdrag ontvang het;
- (g) iemand wat 'n direkteur, agent of bestuurder van, of in diens van, of 'n vennoot in, 'n besigheid, bedryf of beroep uitgeoefen in 'n gelisensierte persel, of die eienaar, verhuurder, huurder of verbaandhouer is van so'n persel van grond ten opsigte waarvan 'n aansoek kragtens artikel vyf-en-dertig bis gedaan is;
- (h) 'n ongerelateerde bankroeter;
- (i) iemand wat in die Gebied of elders tot gevangenisstraf sonder die keuse van 'n boete veroordeel is weens een of ander oordeling van nie-politieke aard, en aan wie deswee geen gracie verleen is nie;
- (j) die voorsitter of 'n lid van die bestuur of 'n beample van 'n klub ten opsigte waarvan 'n dranklisensie gehou word in die distrik waarin die hof bevoegdheid het.

(2) Niemand is bloot weens sy lidmaatskap van 'n klub wat 'n klubdranklisensie besit, onbevoeg om lid van 'n lisensiehof te wees nie.

(3) Geen lid van 'n lisensiehof mag op 'n jaarlike vergadering daarvan sitting neem, ten spy hy, hoogstens sewe dae vantevore 'n verklala-

and handed to the president a declaration that to the best of his knowledge and belief he is not disqualified from sitting as a member of the licensing court by reason that he is a person, or one of a class of persons, described in sub-section (1).

Special disqualification of members of court in particular cases

26quet. No member of a licensing court shall take any part in the hearing or decision of any application for a licensee under this Proclamation if he is —

- (a) an owner, mortgagee, lessor or lessee of the premises in respect of which the application is made;
- (b) a partner, agent or employee of the applicant or of any objector to the application;
- (c) a director, manager or other officer, employee or agent of any company or association which would, if it were an individual, fall within paragraph (a) or (b).

Tenure of office of members of licensing court

26quin. (1) Every member of a licensing court appointed by the Administrator under this Proclamation shall hold office from the first day of January next ensuing after his appointment and continue therein until the last day of December in the same year: Provided that every member appointed in the year 1952 shall hold office from the date of his appointment until the last day of December, 1953.

(2) In the event of any member of a licensing court vacating his office by death, resignation, disqualification, or for any other cause whatever, the vacancy shall be filled by some person appointed by the Administrator.

Secretary to licensing court

26sext. The chairman of a licensing court may, with the approval of the Administrator, appoint as secretary thereto any member of the public service upon the staff of the magistrate of the district. If no such appointment is made, the clerk of the magistrate's court of the district shall be the secretary of the court.

Order of business

26sept. (1) The order of business at any licensing court meeting shall be as determined by the court: Provided that all applications for the renewal of licences shall be heard and disposed of before applications for the grant of new licences are considered.

(2) All meetings of a court shall be open to the public: Provided that if the court so determines, the deliberation and voting upon any matter shall be in private.

Decisions on matters of law

26oct. (1) Any matter of law arising for decision at any meeting of a licensing court, and any question arising at any such meeting as to whether a matter for decision is a matter of fact or a matter of law, shall be decided by the chairman, and no other member of the court shall have a voice in the decision of any such matter.

(2) The chairman may adjourn the argument upon any such matter as may arise in terms of sub-section (1) and may sit without any other member of the court for the hearing of such argument and the decision of such matter.

(3) Whenever the chairman shall give any decision in terms of sub-section (1), he shall state his reasons for that decision.

Decisions on matters of fact

26nov. (1) Upon all matters of fact (which shall be deemed to include any question as to the taking of evidence, or the calling of any witness, or the order of the court's proceedings, or the taking of its own motion of any objection in terms of section forty-one) the decision or opinion of the majority of the members present and qualified to vote shall be the decision or opinion of the court: Provided that in the

ring dat hy, vir sover hy weet, nie onbevoeg is om as lid van 'n licensiehof sitting te neem omdat hy iemand is of behoort aan 'n klas persone vermeld in sub-artikel (1), geteken en aan die voorsitter ingelewer het.

26quat. Geen —

- (a) eienaar, verbandhouer, huurder of verhuurder van persée ten opsigte waarvan daar ingevolge hierdie Proklamasie om 'n licensie aansoek gedoen word; nòg
- (b) 'n venoot, agent of dienaar van so 'n aansoeker of van 'n beswaarmaker teen so 'n lisensie; nòg
- (c) 'n direkteur, bestuurder of onder beambte, dienaar of agent van 'n maatskappy of vereniging wat, as dit 'n persoon was, binne paragraaf (a) of (b) sou resorteer — mag as lid van 'n licensiehof deelneem aan die verhoor of beslissing van so 'n aansoek om 'n lisensie nie.

Ampsuur van lede van licensiehof en die aanvulling van vakature

26quin. (1) Elke lid van 'n licensiehof wat die Administrateur ingevolge hierdie Proklamasie aangestel, beklee sy amp van die eerste dag van dié eerskomende Januarie na sy aanstelling tot op die laaste dag van Desember in dieselfde jaar: Met dien verstande dat elke lid wat in die jaar 1952 aangestel word, sy amp beklee van sy aanstellingsdag af tot op die laaste dag van Desember 1953.

(2) Waar 'n lid se amp in die licensiehof weens sy oorlyde, bedanking, onbevoegheid of om 'n ander rede hoegenaamd, vakanter, stel die Administrateur iemand anders in sy plek aan.

Sekretaris van die licensiehof

26sext. Met Administrateursgoedkeuring kan die voorsitter van 'n licensiehof 'n staatsamptenaar in die magistratspersoneel van die distrik as sekretaris van so 'n licensiehof aangestel. Wanneer sodanige aanstelling geskied nie, is die klerk van die magistratshof van die distrik die sekretaris.

Volgorde van werkzaamhede

26sept. (1) Die volgorde van werkzaamhede by 'n sitting van 'n licensiehof word deur die hof bepaal: Met dien verstande dat alle aansoeke om die vernuwing van lisensies verhoor en afgehandel moet word voordat aansoeke om nuwe lisensies aan die beurt kom.

(2) Die verrigtinge van 'n licensiehof is vir die publiek toeganklik: Met dien verstande dat waar die hof aldus besluit, die bespreking en stemming oor 'n saak privat geskied.

Beslissing van responste

26oct. (1) Waar 'n regspunt by 'n sitting van 'n licensiehof ter beslissing kom, of waar die vraag ontstaan of 'n punt wat uitgemaak moet word, 'n regspunt dan wel 'n feitspunt is, beslis die voorsitter, en het geen ander lid van die hof seggingskap daarrig nie.

(2) Die voorsitter mag die bepleiting van 'n punt waaroor sub-artikel (1) gaan, verdaag, en dan alleen sit ter verhoor en beslissing van die punt.

Beslissing van feite

(3) Wanneer die voorsitter 'n beslissing ingevolge sub-artikel (1) gee, moet hy dit met redes omklee.

26nov. (1) By elke vraag wat op feite berus (en dit omvat elke vraag oor die afname van getuenis of die oproep van 'n getuie of die volgorde van die licensiehof se werkzaamhede of die opper, uit die beweging van 'n bewaars uit hoofde van artikel een-en-veertig) is die beslissing of oordeel van die meerderheid van die aanwesige en stembevoegde lede die beslissing of oordeel van die hof:

event of an equality of votes the chairman in addition to his deliberative vote shall have a casting vote.

(2) It shall not be incumbent upon the court to give any reason for its decision upon any matter decided under sub-section (1).

Records of court's proceedings.

26dec. (1) A record of the proceedings in public of a licensing court at every meeting shall be kept and shall be filed in the office of the magistrate of the district, and the same may be inspected and copies thereof obtained upon like conditions and upon payment of the same fees as if they were civil records of a magistrate's court.

(2) A separate record shall be kept of the proceedings in private of a licensing court and such record shall not be disclosed to any person other than the Administrator save upon an order of the High Court of South West Africa.

6. The following section is substituted for section twenty-nine of the principal Proclamation:-

"List of persons to whom certificates are issued and nature of restrictions, conditions and privileges to be sent to magistrates.

29. The magistrate, acting magistrate, or assistant magistrate, as the case may be, presiding at such court as is section twenty-six provided, shall within seven days of the date of its determination in respect of each licensee for which application has been made, transmit to the magistrate of the district concerned a list signed by him specifying the names and places of residence of all persons to whom certificates have been granted by the court and the nature of, and restrictions and conditions imposed and privileges granted in respect of each licence granted or renewed."

7. The following section is substituted for section thirty of the principal Proclamation:-

"Power of Licensing court to impose conditions and nature of conditions.

30. A licensing court, in granting or renewing any licence, or allowing an application for the removal of such licence, may impose such conditions it may deem fit in respect of—

- (a) any structural alteration or arrangement of, or addition or repairs to, the premises in respect of which the application is made; or
- (b) accommodation to be afforded thereon to the public, including facilities and amenities to be provided in bed and bath rooms; or
- (c) means of egress in case of fire, garage accommodation, proper drainage and sanitary arrangements and conveniences upon the premises; and
- (d) as to any other provision deemed by the court to be necessary in order to meet the reasonable requirements of the public or visitors upon such premises, or to facilitate supervision by the police, or in any other respect,

and may stipulate the period of time within which any such condition shall be complied with by the licensee, or may stipulate that a licence shall not be issued until the senior officer of police in charge of the district or the magistrate has certified in writing that the condition has been fulfilled."

8. The following sections are hereby inserted in the principal Proclamation after section thirty:-

"General suitability of premises.

30 bis. Before granting any application for the grant or renewal of a licence or for the removal of a licence to other premises, a licensing court, and in the case of removal any magistrate acting under section forty-eight, shall satisfy itself or himself that the premises in respect of which the application is made or to which the licence is to be removed afford suitable and satisfactory accommodation for all purposes to which they may lawfully, in

Met dien verstande dat by staking van stemme die voorzitter sowel 'n beslissende as 'n beraadslagende stem het.

(2) Die hof is nie verplig om sy beslissing van 'n vraag waaroor sub-artikel (1) gaan met redes te omkleke nie.

Notule van hof se verrygttings.

26dec. (1) Die openbare verrygttings by elke lisensiehofsitting moet genootleer word, en op kantoor van die magistraat van die distrik bewaar word, en insue daarin en afskrifte daarvan moet verkry kan word op dieselfde voorwaarde en teen betaling van dieselfde geldie asof dit siviele notule van 'n magistraatshof was.

(2) Die private verrygttings van 'n lisensiehof moet afsonderlik genootleer word, en daardie notule mag van niemand behalwe die Administrateur openbaar word nie, tensy die Hoë Hof van Suidwes-Afrika dit gelas.

6. Artikel negen-en-twintig van die hoofproklamasie word hierby vervang met die onderstaande artikel:-

"Lys van persone aan wie sertifikate toegestaan is, en van beperkings, voorwaarde en voorregte moet aan magistrate gestuur word.

29. Die magistraat, waarnemende magistraat of assistent-magistraat, na gelang, wat vooruit by sodanige lisensiehof soos artikel ses-en-twintig bepaal, moet binne sewe dae na die datum van sy beslissing oor elke lisensie waarom aansoek gedoen is, 'n lys, deur hom onderteken, aan die magistraat van die betrokke distrik deurstuur, waarop die name en woonplekke van al die persone aan wie die hof sertifikate toegestaan het, en die aard van, en die beperkings en voorwaarde opgedел, en die voorregte toegekken ten opsigte van elke toegestane of hernuwe lisensie, aangegee word."

7. Artikel dertig van die hoofproklamasie word hierby vervang met die onderstaande artikel:-

"Nar van lisensiehof om voorwaarde te stel, en aard van voorwaarde.

30. By die toekenning of hernuwing van 'n lisensie, of by die goedkeuring van 'n aansoek van verplasing van sodanige lisensie, kan die lisensiehof na goedgunne voorwaarde stel ten opsigte van—

- (a) enige bouverandering of -reëeling van, of byvoeging of herstel aan, die perseel in verband waar mee die aansoek gedoen is; of
- (b) die plaastruimte daarop wat aan die publiek verskaf moet word, met insluiting van fasilitete en geriewe in slaap- en badkamers; of
- (c) brand- en noodduttegange, motorhuisgeriewe, behoorlike dreinings- en sanitasie-reëlings en -geriewe op die perseel; en
- (d) enige ander voorsiening wat die hof noodsaaklik vir die redelike behoeftes van die publiek of besoekers op sodanige perseel, of om toegang deur die polisie te vergemaklik, of in enige ander opsig,

en kan die hof vasstel binne watter tydperk die lisensiehouer sodanige voorwaarde moet nakom, of kan hy nee dat 'n lisensie nie uitgereik mag word nie, voordat die bevoerde senior polisie-offisier van daardie distrik op skrif getuig het dat die voorwaarde negekom is."

8. Die onderstaande artikels word hierby in die hoofproklamasie na artikel dertig ingevoeg:-

"Algemene geskiktheid van perseel.

30 bis. Voor goedkeuring van 'n aansoek van toekenning of hernuwing van 'n lisensie, of van verplasing van 'n lisensie na 'n ander perseel, moet 'n lisensiehof, en in die geval van verplasing 'n magistraat wat ingevolge artikel agt-en-veertig optree, hom oortuig dat die perseel ten opsigte waarvan die aansoek gedoen is, of waarheen die lisensie verplaas moet word, geskikte en voldoende plaastruimte verskaf vir alle doeleindes waarvoor dit wettig ingevoeg

terms of the licence, be put and are sufficiently complete to enable them to be occupied for the purposes of the licence, and to enable the proposed licensed business to be carried on in accordance with the law governing the same.

Premises in respect of which a retail or light liquor hotel licence may be granted.

30 ter. (1) No retail or light liquor licence in respect of an hotel shall be granted and after a period of two years from the commencement of this Ordinance, no such licence shall be renewed, unless the licensing court to which application for the grant or renewal is made is satisfied—

- (a) that the premises in respect of which the application is made afford reasonable residential accommodation for guests, including not less than ten bedrooms where the premises are situated within a municipality or five bedrooms where the premises are situated elsewhere;
- (b) that adequate and proper sanitary and bathroom arrangements are provided on the premises; and
- (c) that a *bona fide* hotel providing such accommodation is or will be conducted by the licensee upon the premises.

(2) For the purposes of this section no room shall be counted as a bedroom which is ordinarily occupied by the licensee or by any member of his family, or by any person employed upon the licensed premises.

(3) Whenever, by the constitution, or extension of the boundaries of any municipality premises in respect of which a retail or light liquor licence in respect of an hotel is held which were previously situated outside a municipality become included in a municipality, the provisions of sub-section (1) requiring that such premises shall contain not less than ten bedrooms shall not apply until the expiration of two years from the date when the premises became so included."

9. Section *thirty-one* of the principal Proclamation is hereby amended by the insertion after the words "Good Friday" of the words "Ascension Day or Day of the Covenant".

10. Section *thirty-two* of the principal Proclamation is hereby amended by the insertion after the words "Good Friday" of the words "Ascension Day or Day of the Covenant".

11. The following sections are hereby inserted after section *thirty-two* of the principal Proclamation:—

Liability of lessor in respect of alteration or repairs ordered by licensing court.

32 bis. (1) Whenever in terms of section *thirty* a licensing court has, in respect of any premises on which is carried on a business for which a retail licence or light liquor licence is necessary, imposed a condition involving a structural alteration or repairs of or addition to such premises, the licensee upon whom such condition has been imposed may if he be a lessee of the premises, require the lessor thereof to comply with the requirements of the court within any period stated in the condition.

(2) If upon a reasonable and *bona fide* estimate the cost of effecting the alteration or repair of or addition to the premises will not exceed three hundred pounds, the licensee, if the lessor within the time stated in the condition or, if no time is stated, within three months of the receipt by him of any notice under sub-section (1) has not effected the alteration or repairs of or addition to the premises, may himself effect the same, and he may set off against any rent due or to become due by him to the lessor the sum which he has expended in complying with the condition.

..Perseel ten opsigte waarvan 'n kleinhandel- of lichte-dranklisensie vir hotelle uitgereek mag word.

die licensie gebruik kan word, en dat dit genoegsaam voltooi is vir besetting ter uitvoering van die licensie en om die beoogde gelisencierde saak ooreenkomsdig die regsbepalings wat daarop betrekking het, te dryf.

30 ter. (1) Geen kleinhandel- of lichte-dranklisensie vir 'n hotel mag toegeken word nie, en na verloop van twee jaar vanaf die inwerkingtreding van hierdie Ordonnansie, mag geen sodanige licensie herinu word nie, tensy die licensiehof by wie aansoek om toekenning of hernuwing gedoen is, oortuig is—

- (a) dat die perseel ten opsigte waarvan die aansoek gedoen is redelike woonplek vir gaste bied insluitende minstens tien slaapkamers waar die perseel geleë is binne 'n munisipaliteit, of vyf slaapkamers waar die perseel elders geleë is;
- (b) dat voldoende en behoorlike sanitasie en badkamergeriewe op die perseel verskaf word; en
- (c) dat die licensiehouer 'n *bona fide* hotel met sodanige beskikbare woonruimte en geriewe op daardie perseel dryf of sal dryf.

(2) By die toepassing van hierdie artikel tel geen kamer wat die licensiehouer of 'n lid van sy gesin, of iemand wat op die gelisencierde perseel in diens is, gewoonlik bewoon, as slaapkamer nie.

(3) Wanneer ook al 'n perseel ten opsigte waarvan 'n kleinhandel- of lichte-dranklisensie vir 'n hotel gehou word, en wat buite 'n munisipaliteit geleë is, deur instelling van uitbreiding van die grense van 'n munisipaliteit, in die munisipaliteit ingesluit word, geld die bepalings van sub-artikel (1) wat vereis dat sodanige perseel minstens tien slaapkamers moet bevat, nie voor afloop van twee jaar vanaf die datum waarop die perseel aldus ingesluit is nie."

9. Artikel *een-en-dertig* van die hoofproklamasie word hierby gewysig deur die woord „Hemelvaartdag of Geloofdag“ in te voeg na die woord „Kerstmisdag“.

10. Artikel *twee-en-dertig* van die hoofproklamasie word hierby gewysig deur die woorde „Hemelvaartdag of Geloofdag“ in te voeg na die woord „Kerstmisdag“.

11. Die onderstaande artikels word hierby na artikel *twee-en-dertig* van die hoofproklamasie ingevoeg:—

Aanspreklikheid van verhuurder by verandering of herstel beveel deur lisenstehof.

32 bis. (1) Wanneer ook al 'n licensiehof in gevolge artikel *dertig*, en ten opsigte van 'n perseel waarop 'n sauk gedryf word, waarvoor daar 'n kleinhandel- of lichte-dranklisensie nodig is, 'n voorwaarde gestel het waarby 'n bouverandering of herstel van, of byvoeging tot sodanige perseel betrokke is, kan die licensiehouer op wie sodanige voorwaarde gele is, en as hy die huurder van die perseel is, eis dat die verhuurder daarvan die bevel van die hof binne die tydperk in die voorwaarde vasgestel, nukom.

(2) As die koste van die verbouing of herstel van, of byvoeging aan, die perseel met 'n redelike en *bona fide* beraming op 'n bedrag (hoogsrens driehonderd pond) gestel word, kan die licensiehouer, as die verhuurder binne die tydperk in die voorwaarde genoem, of, as daar geen tydperk aangegee is nie, binne drie maande nadat hy kennisgewing ingevoer sub-artikel (1) ontvang het, nog nie die verbouing of herstel van, of byvoeging aan, die perseel uitgevoer het nie, dit self doen, en kan hy die bedrag wat hy bestee het aan die nukomming van die voorwaarde, verreken teen enige huurgeld wat hy aan die verhuurder skuld of moontlik sal skuld.

(3) If upon a reasonable and *bona fide* estimate the cost of effecting the alteration or repairs of or addition to the premises will exceed three hundred pounds and the lessor does not within the time stated in the condition, or if no time is stated, within six months of the receipt by him of any notice under sub-section (1), comply with the requirements of the condition, the licensee, notwithstanding any agreement to the contrary, may forthwith and without notice terminate the lease.

*"Addition to
rent when
premises altered
or added to
by lessor."*

32 ter. Whenever in consequence of any condition imposed by a licensing court in terms of section *thirty* a lessor has altered or added to premises upon which is carried on a business for which a retail licence or a light liquor licence is necessary and the expenditure incurred has exceeded three hundred pounds, such lessor, notwithstanding any term of the lease may, as from the date of the completion of the alteration or addition, increase the rent of such premises by a sum not exceeding ten per cent. per annum of the amount of the expenditure incurred, and the rental so increased shall be deemed to be the rent due under the lease."

12. The following section is substituted for section *thirty-three* of the principal Proclamation:

*"Evidence on
oath."*

33. (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 to be administered by the chairman and recorded.

(2) A licensing court may, by written notice under the hand of its chairman or secretary, require the attendance before it of any person who has made any of the applications mentioned in sub-section (1) of section *twenty-six* or in the case of the absence of the holder of any licence, of any person who in such absence is charged with the conduct of the business carried on under such licence, or of any other person who, in the opinion of the court, is able to testify as to any matter which the court has to determine; and may also by like notice require such applicant or person to produce any books or documents relevant to the matter before the court in his possession or under his control.

(3) Any person who —

- (a) refuses or fails without sufficient excuse to attend and give evidence before a licensing court at the time and place specified in a notice given under sub-section (2), or to produce any book, paper or document which he has been required by such notice to produce; or
- (b) knowing that he is disqualified from doing so, sits or votes as a member of a licensing court or takes any part in the hearing or decision of an application for a licence or wilfully makes a false declaration as to his qualification to be a member of the licensing court, shall be guilty of an offence.

13. The following section is substituted for section *34 bis* of the principal Proclamation:—

"Appeals."

34 bis. (1) An appeal shall lie to a licensing board of appeal (hereinafter called the board) constituted in accordance with the provisions of this section by—

- (a) any person who has made an application for a licence in terms of section *thirty-five* against any determination or decision of the licensing court under section *twenty-six* including any conditions imposed under section *thirty*;

(3) As die koste van die verbouing of herstel van, of byvoeging aan, die perseel met 'n redelike en *bona fide* beraming op meer as driehonderd pond gestel word, en die verhuurder nie binne die tydperk in die voorwaarde genoem, of as daar geen tydperk genoem is nie, binne ses maande vanaf ontvangoor deur hom van 'n kennisgiving ingevolge sub artikel (1) nog nie die vereistes van die voorwaarde niecenstaande enige strydige oorekomks nagekom het nie, kan die lisenischouer die huur onmiddellik en sonder kennisgiving beëindig.

*".Byvoeging tot
huurgeld waar
verhuurder
perseel verbou
of aangebou
het."*

32 ter. Wanneer ook al 'n verhuurder ten gevolge van 'n voorwaarde wat 'n lisenischof ingevolge artikel *dertig* opgelê het, 'n perseel waarop daar 'n saak gedryf word, waaroor daar 'n kleinhandel- of ligte-dranklisenis nodig is, verbou het, of daarvan byvoeg het, en die uitgawe daaraan is meer as driehonderd pond, kan sodanige verhuurder niecenstaande enige voorwaarde van die huurkontrak, die huurgeld van sodanige perseel vanaf die datum waarop die verbouing van toevoeging voltooi is, verhoog met 'n bedrag van hoogstens tien persent per jaar van die bedrag van die uitgawe aangegaan, en die aldus verhoogde huurgeld word gehou vir die huurgeld betaalbaar ingevolge die huurkontrak."

12. Die onderstaande artikel vervang hierby artikel *drie-en-dertig* van die hoofproklamasie:

*"Geulenis onder
eed."*

33. (1) Wanneer 'n lisenischof dit nodig ag om getuenis af te neem oor 'n vraag wat hy moet beslis, moet daardie getuenis afgelê word onder 'n eed wat die voor sitter ople, en moet dié getuenis genootleer word.

(2) 'n Lisenischof mag iemand wat by hom aansoek gedoen het om 'n nuwe lisenis of om die heruwining, oordrag of verplaas van 'n lisenis soos genoem in sub-artikel (1) van artikel *ses-en-twintig* (of, as sodanige lisenishouer afwesig is, die persoon wat by sodanige afwesigheid behas is met die bestuur van die sake-onderneeming wat kragtens die lisenis gedryf word) of enigemand anders wat, na die hof se oordel, getuenis kan aflu oor enigets wat die hof moet beslis, by skriftelike kennisgiving onder die hand van sy voor sitter of sekretaris, voor hom daag, en mug, by 'n dergelike kennisgiving, die gedaagde gelas oor enige boeke, stukke of dokumente in sy besit of onder sy beheer, betrekende die saak voor die hof, aan die hof voor te le.

(3) Elk een wat —

- (a) wcier, of sonder geucogsame verskoning versuim, om voor 'n lisenischof te verskyn en getuenis af te le op die tyd en plek wat 'n kennisgiving ingevolge sub-artikel (2) aandui, of om 'n boek, stuk of dokument voor te le nadat sodanige kennisgiving hom daaroe gelas het; of wat
- (b) os lid van 'n lisenischof optree of stem of aan die verhoor of beslissing oor 'n aansoek om 'n lisenis deelueem terwyl hy weet dat hy onbevoeg is daartoe, of wat opsetlik 'n valse verklaring aflu oor sy bevoegdheid om lid van 'n lisenischof te wees, is skuldig aan 'n oortreding.

13. Artikel *34bis* van die hoofproklamasie word hierby vervang deur die onderstaande artikel:—

".Appel."

34 bis. (1) Onderstaande persone kan in hoër beroep gaan na 'n lisenis-appèlraad (hierna genoem die raad) wat ooreenkomsdig die bepaalings van hierdie artikel ingestel is—

- (a) enigene wat ingevolge artikel *vyf-en-dertig* aansoek gedoen het om 'n lisenis, teen enige vasstelling van beslissing van die lisenischof ingevolge artikel *ses-en-twintig* insluitende enige voorwaardes gestel ingevolge artikel *dertig*,

(b) any objector mentioned in section *thirty-nine*, who, if he is an objector to the granting of a licence on any of the grounds mentioned in section *forty*, or to the renewal of a licence in terms of section *forty-two*, or to the transfer or removal of a licensee in terms of section *forty-one* shall be limited on appeal to the grounds of his objection before the licensing court, against any determination or decision of the licensing court under section *twenty-six*,

on the grounds that such determination or decision is bad in law, or that the licensing court exceeded its powers, or refused to exercise powers which it was bound to exercise or exercised its powers in an arbitrary, *male fide* or grossly unreasonable manner.

(2) Every board so constituted shall consist of three persons, one being a magistrate designated by the Administrator as the chairman thereof. The other two members shall be an officer of the public service and a nominee of the Association of Chambers of Commerce of South West Africa.

(3) The Administrator may by writing under his hand constitute such board as circumstances may require.

(4) The members of the board shall be appointed by the Administrator in writing. Every such appointment shall be for such period (which may be until one or more specified appeals have been disposed of) as the Administrator may think fit.

(5) Every notice of appeal shall be in writing, shall set out the grounds of appeal, shall bear revenue stamps to the value of one pound, and shall be lodged with the licensing court concerned within twenty-one days after the decision of the licensing court. No such notice of appeal shall be of any force or effect whatsoever unless it has been lodged within the time prescribed by this sub-section and unless it has been duly stamped as in this subsection required.

(6) At any such appeal the appellant shall be limited to the grounds stated in his notice of appeal.

(7) Within seven days after receipt of a notice of appeal the licensing court shall furnish to the Secretary for South West Africa reasons for its decision.

(8) At least fourteen days before the date fixed for the hearing of an appeal the Secretary for South West Africa or a person duly authorised by him shall send to the applicant and for and objector to the licence concerned and to the magistrate who presided at the licensing court concerned a written notice of the time and place appointed for the hearing of such appeal.

(9) The hearing of an appeal may be adjourned by the board from time to time to any time and place that may seem convenient.

(10) The appellant, any objector to a licence or the transfer or renewal thereof, the licensing court or any person who is able to satisfy the board that he has a substantial interest in the result of the appeal may appear at the hearing of the appeal in person or by his counsel or attorney.

(11) The board shall, after considering any reasons given by the licensing court and representations made by or on behalf of the appellant or objector to a licence, the licensing court or any other person entitled to representation, confirm, set aside or vary the decision

(b) enige beswaarmaker genoem in artikel *negen-en-dertig*, wat, as hy beswaar maak teen die toekenning van 'n lisensie op enige gronde genoem in artikel *veertig*, of teen die herneming van 'n lisensie ingevolge artikel *twee-en-veertig*, of teen die oordrag of verplasing van 'n lisensie ingevolge artikel *een-en-vyftig*, by sy appèl beperk word tot die gronde van sy beswaar voor die licensiehof, teen enige vasstelling of beslissing van die licensiehof ingevolge artikel *ses-en-twintig*,

omdat sodanige vasstelling of beslissing regtens ongegrond is, of dat die licensiehof sy bevoegdhede oorskry het, of geweier het om bevoegdheid uit te oefen wat hy moes uitgeoefen het, of sy bevoegdheid willkeurig, *male fide*, of erg onredelik uitgeoefen het.

(2) Elke raad wat aldus ingestel is, bestaan uit drie persone, een waarvan 'n magistraat is wat die Administrateur tot voorzitter van die raad aanswy. Die ander twee lede is 'n staatsamptenaar en iemand wat die Vereniging van Handelskamers van Suidwes-Afrika benoem.

(3) Die Administrateur kan op skrif onder sy hand sodanige raad aanstel soos omstandighede vereis.

(4) Die lede van die raad word skriftelik deur die Administrateur aangestel. Elke sodanige aanstelling geld vir 'n tydperk wat die Administrateur goed vind (en kan duur totdat een of meer spesifieke appelle afgehandel is).

(5) Elke kennisgewing van appèl moet in skrif wees, moet die gronde van die appèl uiteenstel, moet inkomsteseels teen bedrae van een pond dra, en moet binne een-en-twintig dae na die beslissing van die licensiehof by die betrokke licensiehof ingelewer word. Geen sodanige kennisgewing van appèl het enige krag of werking heegenaamd nie, tensy dit binne die heidre sub-artikel voorgeskrewe tydperk ingelewer is nie, en tensy dit behoorlik ingevolge die vereistes van hierdie sub-artikel gefrankeer is nie.

(6) By elke sodanige appèl moet die appellarant hom beperk tot die gronde genoem in sy kennisgewing van appèl.

(7) Binne sewe dae na ontvangs van 'n kennisgewing van appèl moet die licensiehof die Sekretaris van Suidwes-Afrika in kennis stel van die redes vir sy beslissing.

(8) Minstens veertien dae voor die datum wat vir die verhoor van die appèl vasgestel is, stuur die Sekretaris van Suidwes-Afrika, of iemand wat behoorlik deur hom gemagtig is, aan die appellarant om, en die beswaarmaker teen, die betrokke lisensie sowel as aan die magistraat wat in die betrokke licensiehof voorgesit het, 'n skriftelike kennisgewing van die tyd en plek wat vir die verhoor van sodanige appèl vasgestel is.

(9) Die raad kan die verhoor van die appèl van tyd tot tyd en tot enige tyd en plek verdaag soos hy gerieflik vind.

(10) Die appellarant, enige beswaarmaker teen die lisensie of oordrag of herneming, die licensiehof of enigeen wat die raad kan oortuig dat hy wesenlike belang het by die uitslag van die appèl, kan self, of middels sy advokaat of prokureur die verhoor van die appèl bywoon.

(11) Na oorweging van die redes aangevoer deur die licensiehof en die vertoe gerig deur of namens die appellarant of beswaarmaker teen 'n lisensie of die licensiehof of enigemand anders wat vertoe mag rig, moet die raad die beslissing van die licensiehof bekragtig, ver-

of the licensing court, or give such other decision as in its opinion the licensing court ought to have given, or make such order as it deems fit, including an order that the matter be referred back to the licensing court for rehearing, reconsideration and, if deemed necessary, further investigation thereof:

Provided that no decision shall be set aside—

- (a) by reason merely of a formal or technical defect in any of the proceedings which has not in the opinion of the board resulted in substantial injustice; or
- (b) in any other case, unless the board is satisfied that any matter proved, caused or was calculated to cause substantial prejudice to the appellant or to any other person.

(12) The board shall have power to award costs of the successful party according to the scale, in civil cases, of magistrates' courts. Any costs awarded as aforesaid shall be taxed by the Clerk of the Court of the Magistrate of the district in which the appeal was heard by the board, as if such costs were awarded by such court, and all rules applicable by law to the taxation and recovery of costs in magistrates' courts shall in such case *mutatis mutandis* apply.

Any costs awarded against the members of a licensing court in their official capacity shall be borne by the Administration.

(13) Any decision of the board shall be recorded by the chairman.

(14) Where the licensing court has refused to issue a licence in the case of an application for renewal in respect of an existing business and a notice of appeal has been lodged, such business may continue to operate, pending the decision of such appeal in terms of this section.

(15) The members of the board (other than those who are officers of the public service) shall receive such allowances as may be determined by the Administrator."

14. The following section is substituted for section thirty-five of the principal Proclamation:—

Applications for licences.

35. (1) Any person desiring to obtain at a licensing court meeting any licence for which a certificate of the licensing court is necessary, or—

- (a) the renewal of any such licence;
- (b) the removal of any such licence from the licensed premises to any other premises in the same district;
- (c) the transfer of a licence from the holder thereof to any other person;
- (d) the ratification of a temporary transfer granted in terms of section forty-six;
- (e) the ratification of the removal of a licence authorised in terms of section forty-eight,

shall make application in writing to the magistrate of the district, on or before the last day of January if the matter is to be heard at the annual licensing meeting or on or before the last day of July if the matter is to be heard at the September meeting: Provided that if a transfer or removal is effected after the last day of the months of January or July, the application shall be made to the following sitting of the licensing court.

(2) Every such application, other than an application relating to a retail or light liquor licence in respect of railway refreshment car, licence shall set forth—

werp of wysig, of sodanige ander beslissing gee soos die lisensiehof na sy mening moes gegee het, of sodanige bevel doen soos hy goed vind insluitende 'n bevel dat die saak terugverwys word na die lisensiehof ter her-verhoor, hieroorweging en, as dit nodig gevind word, ter nadere ondersoek daarvan:

Met dien verstande dat geen beslissing verwerp mag word nie—

- (a) bloot weens 'n formele of tegniese gebrek in enige deel van die procedure, wat na die mening van die raad, nie wesenlike onreg ten gevolge gehad het nie; nog
- (b) in enige ander geval nie, tensy die raad vooruitgaan is dat enige bewese feite die appellant of enigiemand anders wesenlik benadeel het of sou kon benadeel het.

(12) Die raad het die mag om die koste van die geslaagde gedingvoerder volgens die skaal wat in magistratoshewe vir siviele sake geld, toe te ken. Koste wat soos voormeld toegeken word, moet deur die Klerk van die Hof van die Magistraat van die distrik waarin die appèl deur die raad verhoor is, getaks eer word asof sodanige koste deur sodanige hof toegeken is, en al die regssreels op tukasie en verbaal van koste in magistratoshewe is by sodanige geval *mutatis mutandis* van toepassing.

Koste toegeken teen die lede van 'n lisensiehof in hul ampelike hoedanigheid moet deur die Administrasie gedra word.

(13) Die voorvoer moet elke beslissing van die raad noteer.

(14) Waar die lisensiehof op 'n aansoek om hernuwing ten opsigte van 'n bestaande handelsonderneming geweier het om 'n lisensie uit te reik, en kennismetting van appèl gegee is, kan sodanige handelsonderneming voortgaan hangende die beslissing van sodanige appèl ingevolge hierdie artikel.

(15) Die lede van die raad (buiten staatsamptenare) ontyng toelaes soos die Administrasie bepaal."

14. Artikel vyf-en-dertig van die hoofproklamasie word hierby met die onderstaande artikel vervang:—

Aansoek om lisensies.

35. (1) Elkeen wat by 'n vergadering van die lisensiehof 'n lisensie wil verkry waarvoor 'n sertifikaat van die lisensiehof nodig is, of—

- (a) die hernuwing van so 'n lisensie;
- (b) die verplasing van so 'n lisensie vanaf die gelisensierte perseel na 'n ander perseel in dieselfde distrik;
- (c) die oordrag van 'n lisensie van die houer daarvan na iemand anders;
- (d) die bekratiging van 'n tydelike oordrag toegeken ingevolge artikel ses-en-veertig;
- (e) die bekratiging van die verplasing van 'n lisensie gemagtig ingevolge artikel agt-en-veertig;

moet by die magistraat van die distrik skriftelik aansoek doen, en wel op of voor die laaste dag van Januarie as die saak op die jaarvergadering van die lisensiehof verhoor moet word, of op of voor die laaste dag van Julie as die saak op die vergadering in September verhoor moet word: Met dien verstande dat as 'n oordrag of verplasing na die laaste dag van die maande Januarie of Julie geskied, die aansoek gerig moet word aan die daaropvolgende vergadering van die lisensiehof.

(2) Elke sodanige aansoek, buiten 'n aansoek betreffende 'n kleinhandel- of ligte-dranks-lisensie vir 'n spoorwegverversingswa, moet die onderstaande uitsent—

- (a) the full name and address of the applicant; and in the case of a transfer of a licence, or the ratification of a temporary transfer of a licence granted in terms of section forty-six, the full names and addresses of the transferor and transferee;
- (b) the name and address of any person who has, or to whom it is proposed to grant, any financial interest in the business conducted under the licence, and the nature and extent of such interest, or that no person has any financial interest, if such be the case;
- (c) the nature and description of the licence sought to be obtained, renewed, removed or transferred, including a description of all privileges granted to the holder of the licence sought to be renewed, removed or transferred, and if any privileges are sought in respect of the renewal, removal or transfer of such licence, full particulars of such privileges;
- (d) the situation of the premises where the business is intended to be carried on, including the number, or name (if any) of the building and of the street or road and the number or other designation of the lot or erf;
- (e) a description of the premises which shall be accompanied by a plan in duplicate drawn to scale clearly showing the dimensions and arrangements of the internal structure together with all doors, windows, and means of external and internal communication, and the streets and places to which such means of external communication lead: Provided that after the first day of January, 1945, no such plan shall be necessary in the case of an application for the renewal of a licence if the applicant with his application submits an affidavit that since the last application for a licence the premises have undergone no alteration;
- (f) particulars of any tie by which the applicant, or in the case of a transfer of a licence, the transferee is, or is proposed to be bound in respect of the business conducted under the licence;
- (g) in the case of a temporary transfer granted in terms of section forty-six or a removal authorised in terms of section forty-eight, the date when such temporary transfer was granted or such removal authorised.

(3) Every application relating to a railway refreshment car shall set forth the nature or description of the licence sought to be obtained or renewed and the railway line on which business is intended to be or is being carried on.

(4) Any person who submits to a licensing court or to a magistrate any written information, whether on affidavit or otherwise, which he knows to be false or does not know to be true, or is in any way a party to any such submission, shall be guilty of an offence."

15. Section thirty-seven of the principal Proclamation is hereby amended by the insertion after the word "transfer" of the words "the ratification of any temporary transfer or removal or the issue of a conditional authority in terms of section thirty-five bis."

- (a) die volle naam en adres van die applikant; en by die oordrag van 'n lisensie, of die bekragtiging van 'n tydelike oordrag van 'n lisensie toegeken ingevolge artikel ses-en-veertig, die volle name en adresse van die oordraer en die ontvanger;
- (b) die naam en adres van enige wat geldelike belang in die saak wat ingeval die lisensie gedryf word, het of aan wie daar beoog word om sodanige geldelike belang toe te staan, en die aard en omvang van sodanige belang, of andersins, as dit so is, dat niemand geldelike belang daarin het nie;
- (c) die aard en beskrywing van die lisensie waarom toekennung, hernuwing, verplasing of oordrag aangevra word, asook 'n beskrywing van al die voorregte toegeken aan die houer van die lisensie waarom hernuwing, verplasing of oordrag aangevra word, en as daar om enige voorregte ten opsigte van die hernuwing, verplasing of oordrag van sodanige lisensie aangevra word, dan volledige besonderhede van sodanige voorregte;
- (d) die ligging van die perseel waar die saak nu voorneme gedryf gaan word insluitende die nommer of moontlike naam van die gebou en van die straat of pad en die nommer of ander onderskeidingsnaam van die perseel of erf;
- (e) 'n beskrywing van die perseel wat ver gesel moet gaan van 'n plan in tweevoud en volgens skaal geteken wat die afmetings en inrigting van die binnegebou met alle deure, vensters en buite- en binnewerbindingsmiddels aantoon, sowel as die strate en plekke waartoe sulke buitewerbindingsmiddels lei: Met dien verstande dat so 'n kaart na die eerste dag van Januarie 1945 nie nodig is by 'n aansoek om hernuwing van 'n lisensie nie, as die applikant saam met sy aansoek 'n beeldige verklaring verstrek dat die perseel sedert sy onmiddellik voor gaande aansoek om 'n lisensie geensins verander is nie;
- (f) besonderhede van enige koopverpligting waaraan die applikant, of by die oordrag van 'n lisensie, die ontvanger ten opsigte van die handelsonderneeming wat ingeval die lisensie gedryf word, gebonde is of voorneem is hom te bind;
- (g) by 'n tydelike oordrag toegeken ingeval artikel ses-en-veertig of 'n verplasing genagtag ingeval artikel agt-en-veertig, die datum waarop sodanige tydelike oordrag toegeken is of sodanige verplasing genagtag is.

(3) Elke aansoek betreffende 'n spoorwegerversingswa moet die aard en soort van die lisensie waarom toekennung of hernuwing aangevra word en die spoorlyn waarop die handelsonderneeming na voorneme gedryf gaan word of reeds gedryf word, uiteenset.

(4) Elkeen wat aan 'n licensiehoof of 'n magistratuur skriftelike inligting, hetby beeldig of andersins verstrek, wat nu sy wete vals is of oor die waarheid waarvan hy nie oortuig is nie, of elkeen wat enigsins deelneem aan so 'n verstrekking van inligting, is skuldig aan 'n misdryf."

15. Artikel sewen-en-dertig van die hoofproklamasie word hierby gewysig deur die woorde „of om die bekragtiging van enige tijdelike overdracht of verplaatsing, of de verlening van een voorwaardelike magtiging“ overgenomstig artikel vyf-en-dertig bis in te voeg na die woorde „licentie“.

16. Section *forty-three* of the principal Proclamation is hereby amended by the deletion of the words "subject to the provisions of section 29 hereof".

17. The following section is hereby substituted for section *fifty* of the principal Proclamation:—

^{"Removal of temporary transfers or removals."} 50. Any person to whom a licence may be temporarily transferred in terms of section *forty-six* and any person who has been authorised to remove his licence in terms of section *forty-eight* shall apply at the next meeting of the licensing court for removal of such temporary transfer or removal. If the next meeting of the licensing court is the September meeting and the application is allowed by the court an endorsement shall be made on the existing licence, which shall, subject to such endorsement, be of force during the unexpired term thereof. If the next meeting of the court is the annual licensing meeting and the application is allowed by the court the person to whom such licence has been temporarily transferred or the person who has been so authorised to remove his licence may also apply for a renewal of such licence. Every application in terms of this section shall be made in writing and shall set forth the particulars mentioned in sub-section (2) of section *thirty-five*."

18. Section *fifty-two* of the principal Proclamation is hereby amended by the addition of the following words:—

"In the case of a temporary transfer 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 the transferor for such renewal. In the case of removal the applicant shall be deemed to have applied in due form for a renewal of the licence in respect of the premises originally licensed, provided that the court may postpone consideration of the application to a date fixed by it and order such publication and giving of notice by the applicant as it may deem fit."

19. Section *sixty bis* of the principal Proclamation is hereby amended by the insertion of the following words at the beginning of the section "Subject to the provisions of this Proclamation".

20. The following section is hereby inserted in the principal Proclamation after section *sixty-five*:—

^{"Records to be kept."} 65 bis. (1) Every holder of any liquor licence shall keep in the English or Afrikaans language such records in respect of any such licence as may be prescribed by regulation made by the Administrator.

(2) Any book, record or permit kept by any such licensee shall at all reasonable times be open to inspection by any member of the police."

21. Section *sixty-eight* of the principal Proclamation is hereby amended by the deletion in sub-section (2) of the words "any wagon or other vehicle in which it is being conveyed".

22. Section *sixty-nine* of the principal Proclamation is hereby amended by the addition of the following paragraph:—

"(12) fail to keep, or keep inadequately or improperly any record, book, or document, which by any provision of this Proclamation, or any regulation made thereunder, he is required to keep, or refuses or fails to allow any police inspection of any such record, book or document."

23. Section *seventy-two* of the principal Proclamation is hereby amended by the addition at the end thereof of the words "and liable to the penalties prescribed by section *seventy-one*" after the word "offence".

16. Artikel *drie-en-veertig* van die hoofproklamasie word hierby gewysig deur die woorde „onderhevig aan die voorzieningen van seëc 29 van deze Proklamatie“ te skrap.

17. Artikel *vyftig* van die hoofproklamasie word hierby vervang met die onderstaande artikel:—

^{"Bekrystiging van tydelike oordrae of verplastings."} 50. Elkeen aan wie 'n licensie ingevolge artikel *ses-en-veertig* tydelyk oorgedra word, en elkeen wat gemagtig is om sy licensie ingevolge artikel *agt-en-veertig* te verplaas moet by die daaropvolgende vergadering van die lisensiohof aansoek doen om bekragtiging van sodanige tydelike oordrag of verplasing. As die daaropvolgende sitting van die lisensiohof die van September is, en die hof keur die aansoek goed, moet daar 'n aantekening op die bestaande licensie gemaak word, en dan is sodanige licensie, onderhevig aan die aantekening, van krag vir die onverstrekke termyn daarvan. As die daaropvolgende vergadering van die lisensiohof sy jaarlike sitting is en die hof keur die aansoek goed, kan die persoon aan wie sodanige licensie tydelik oorgedra is of die persoon wat aldus gemagtig is om sy licensie te verplaas, ook aansoek doen om 'n hernuwing van sodanige licensie. Elke aansoek ingevolge hierdie artikel moet op skrif geskied en moet die besonderhede genoem in sub-artikel (2) van artikel *vyf-en-dertig* uiteensit."

18. Artikel *twee-en-vyftig* van die hoofproklamasie word hierby gewysig deur die onderstaande woorde by te voeg:—

„By 'n tydelike oordrag word 'n aansoek deur die ontvanger om hernuwing van 'n licensie op versoek van die oordraer besku as en gehou vir 'n aansoek om hernuwing deur die oordraer. By 'n verplasing word daar aangeneem dat die applikaant behoorlik om hernuwing van die licensie ten opsigte van die oorspronklik gelisensierte perseel aansoek gedoen het, met dien verstande dat die raad ty oorweging van die aansoek kan uitstel tot op 'n datum wat hy bepaal en beveel dat die applikaant sodanige bekendmaking en kennissgewing soos die hof goed vind, laat geskied.“

19. Artikel *sesig bis* van die hoofproklamasie word hierby gewysig deur die onderstaande woorde vooraan te voeg: „Behoudens die bepalings van hierdie Proklamasië.“

20. Die onderstaande artikel word hierby in die hoofproklamasie na artikel *vyf-en-sesig* ingevoeg:—

^{"Hou van aantekeningen."} 65 bis. (1) Elke houer van 'n dranklicensie moet sodanige aantekeningen in die Engelse of Afrikaanse taal ten opsigte van enige sodanige licensie aanhou soos die Administrateur by regulasie voorskryf.

(2) Elke boek, aantekening of permit wat so 'n licensiehouer hou, moet te alle redelike tye ter inspeksie deur enige lid van die polisie beskikbaar wees."

21. Artikel *agt-en-sesig* van die hoofproklamasie word hierby gewysig deur in sub-artikel (2) die woorde „en enige wagen of ander voertuig waarin het vervoerd word“ te skrap.

22. Artikel *negeen-en-sesig* van die hoofproklamasie word hierby gewysig deur die onderstaande paragraaf by te voeg:—

„(12) versuum om 'n aantekening, boek of dokument te hou, wat hy kragtens voorskrif van hierdie Proklamasië, of 'n regulasie daarinvolge, moet hou, of dit onvoldende of onbehoorlik hou, of weier of versuum om aan die polisie insue van so 'n aantekening, boek of dokument te verleen.“

23. Artikel *twee-en-sewentyng* van die hoofproklamasie word hierby gewysig deur die woorde „en is onderhevig word hierby amende de straffen die artikel een-en-sewentyng voorschrijf“ agteraan te voeg.

24. Section eighty-nine of the principal Proclamation is hereby amended by the deletion of the words "or a person lodging in the licensed house".

25. Section ninety-five of the principal Proclamation is hereby amended—

- (a) by the insertion after the word "house" of the words "hereinafter called a lodger"; and
- (b) by the addition of the following sub-sections, the existing section becoming sub-section (1):—

(2) No liquor intended for consumption on the licensed premises by the guest of any lodger shall be supplied to such lodger during any time when the licensee is not authorised by the licence to sell liquor unless the name and address of such guest and the name of the lodger have been written clearly and legibly in ink by such guest in a special register to be kept by the licensee for the purpose. Any licensee who supplies any such liquor contrary to the provisions of this sub-section shall be guilty of an offence.

(3) Any person who enters in a register referred to in sub-section (2) as his name or address, a name or address which is not his correct name or address, or enters as the name of a lodger whose guest he purports to be, a fictitious name or the name of a person who is not a lodger at the licensed premises in question, or who has not invited him to be his *bona fide* guest, shall be guilty of an offence.

26. The following section is hereby inserted after section one hundred and two of the principal Proclamation:—

'Report by Police of failure of licensed to carry out condition.'

102 bis. (1) It shall be the duty of the senior police officer in charge of a district to ascertain and report to the magistrate whether any condition imposed by the licensing court upon any licensee as to any structural alteration or arrangement of, or addition to, the premises in respect of which any licensee has been granted or renewed or as to the accommodation to be afforded in such premises to the public, or as to any other matter whatsoever has, within any period which may have been stipulated by the court, been complied with.

(2) If it appears to the magistrate receiving any such report that any condition referred to in sub-section (1) has not fully been complied with, he shall report that fact to the Administrator, who may, in terms of section one hundred and two authorise the holding of a special meeting of the licensing court concerned. At least fourteen days notice of such meeting shall be given by the magistrate to the licensee concerned.

(3) At any such meeting the licensing court shall have the power forthwith to cancel the licence, or to impose such prohibition, restriction or condition as it may have imposed at an annual licensing meeting."

27. The following section is hereby inserted after section one hundred and three:—

"Forfeiture of seized liquor and vessels."

103 bis. (1) Any liquor or any vessel containing such liquor seized under the authority of this Proclamation or of the Criminal Procedure and Evidence Proclamation, 1935, or any amendment thereof, for the purposes of any prosecution against any person for a contravention of this Proclamation, whether a prosecution is subsequently instituted or not, shall be forfeited unless—

- (a) in the case where such liquor forms the subject of the prosecution of the person in whose possession it was seized, the court finds that the liquor was not possessed by him in contravention of any provision of this Proclamation; or

24. Artikel negen-en-tig van die hoofproklamasie word hierby gewysig deur die woorde „of niet een persoon is die in het gelicentieerde huis logeert” te skrap.

25. Artikel vyf-en-negentig van die hoofproklamasie word hierby gewysig—

- (a) deur die byvoeging na die woorde „sloeert” van die woorde „(hierna heet hij een loscerder)”; en
- (b) deur die byvoeging van die onderstaande sub-artikels, sodat die bestaande artikel nou sub-artikel (1) word:

(2) Geen drank wat bedoel is om op die gelicentieerde personeel verbruik te word deur die gas van 'n loscerder mag oot op 'n tyd wanneer die licensiehouer se licensie dit nie veroorloof nie, aan sodanige loscerder verskaf word nie, tensy die naam en adres van sodanige gas, en die naam van sodanige loscerder duidelik leesbaar met ink in 'n spesiale register wat die licensiehouer daarvoor aanhou, deur sodanige gas aangeket is. Elke licensiehouer wat enige sodanige drankstrydig met die bepalings van hierdie sub-artikel verskaf, is skuldig aan 'n oortreding.

(3) Elkeen wat in 'n register genoem in sub-artikel (2) 'n naam of adres wat nie sy regte naam of adres is nie, of wat daarin 'n fiktiewe naam of die naam van iemand wat nie by die betrokke gelicentieerde persel loscer nie, of wat hom nie *bona fide* as gasheer uitgenodig het nie, inskrif as sou die naam van sy gasheer wees, is skuldig aan 'n oortreding.

26. Die onderstaande artikel word hierby na artikel eenhonderd-en-twee van die hoofproklamasie ingevoeg:—

„Verslag deur polisie oor versium van licensiehouer om voorwaarde na te kom.”

102 bis. (1) Dit is die plig van die senior bevelvoerende politie-offisier in elke distrik om vas te stel of enige voorwaarde wat 'n licensiehof 'n licensiehouer opgele het betreffende die verbouwing of bou-revl van, of byvoeging aan, 'n perseel waarvoor 'n licensie toegeken of hernoewe is, of betreffende die plaasruimte wat sodanige perseel aan die publiek moet aangebied, of betreffende enige ander saak hoegenaamd binne 'n tydperk wat die hof vasgestel het, nagekom is, en in verslag daaroor aan die magistraat te doen.

(2) As dit vir die magistraat wat sodanige verslag ontvang, lyk usof 'n voorwaarde genoem in sub-artikel (1) nie ten volle nagekom is nie, moet by verslag daaroor doen aan die Administrateur, wat ingevolge artikel eenhonderd-en-twee die hou van 'n spesiale vergadering van die betrokke licensiehof kan magtig. Die magistraat moet die betrokke licensiehouer minstens veertien dae kennis van so 'n sitting gee.

(3) By so 'n sitting kan die licensiehof onmiddellik die licensie intrek of sodanige verbod, beperking of voorwaarde ople sows hy moontlik op 'n jaarlikse licensie-vergadering sou opgele het."

27. Die onderstaande artikel word hierby na artikel eenhonderd-en-drie ingevoeg:—

„In bestag- genname drank en hours word verbeur.”

103 bis. (1) Enige drank en enige houer wat sodanige drank bevat, wat ingevolge hierdie Proklamasie of ingevolge die „Krimincle Procedere en Bewyslewering Proklamasie 1935” of enige wysiging daarvan in beslag geneem word ter vervolging van enigemand weens 'n oortreding van hierdie Proklamasie, word verbeur (of later dan 'n vervolging ingestel word, al dan nie) tensy—

- (a) die hof (in gevalle waar sodanige drank die onderwerp is van die vervolging van die persoon in wie se dit in bestag geneem is) bevind dat sodanige drank geensins strydig met enige bepaling van hierdie Proklamasie besit is nie; of

(b) in any other case if the person from whom such liquor was taken proves within thirty days of the seizure to the satisfaction of the Administrator that the possession of it by himself or any other person was not unlawful.

(2) Any liquor or vessel so forfeited may be sold or destroyed, or dealt with in such other manner as the Administrator may direct."

28. Section one of the Brewers and Distillers Licences Duty Proclamation, 1924 (Proclamation No. 3 of 1924), as amended, is hereby further amended—

(a) by the deletion in sub-paragraph II of paragraph (a) of the words "but, except as hereinafter provided, not from any depot situated elsewhere"; and

(b) by the repeal of both provisos to sub-paragraph II.

29. The Brewers and Distillers Licences Duty Amendment Ordinance, 1938 (Ordinance No. 1 of 1938), is hereby repealed.

30. All licences issued under the provisions of sub-paragraph II of paragraph (a) of Section one of the Brewers and Distillers Licences Duty Proclamation, 1924 (Proclamation No. 3 of 1924), as amended, providing for the holders of a Special Brewers Wholesale Licence to sell or supply the product of his manufacture from a depot, and in this Ordinance called a special brewers wholesale depot licence, which may not have expired at the commencement of this Ordinance, shall until their expiry on the 31st March, 1953 be dealt with and judged of in respect of the sales and dealings which they authorise and the rights and liabilities of the holders thereof and of all persons in relation to such sales and dealings as if the provisions of the said Proclamation as amended and repealed by sections twenty-eight and twenty-nine of this Ordinance still remained in force: Provided that nothing in this section contained shall be construed so as to affect the operation of the provisions of section sixty-five bis of the principal Proclamation as inserted by section twenty of this Ordinance: Provided further that notwithstanding anything in section one of Brewers and Distillers Licences Duty Proclamation, 1924, as amended, contained, no sales from a depot by the holder of a Special Brewers Wholesale Licence shall be permitted on Day of the Covenant.

31. The Second Schedule to the principal Proclamation is hereby amended—

(a) by the insertion in paragraph (6) after the words "bottle licence" of the words "special brewers wholesale depot licence"; and

(b) by the addition of the following paragraph:—

"(10) For a special brewers wholesale depot licence for one year . . . £10."

32. This Ordinance shall be called the Liquor Licensing Amendment Ordinance, 1952.

(b) in elke ander geval, tensy die persoon van wie sodanige drank geneem is, binne dertig dae na sodanige inbeslagneming ten genoeë van die Administrateur bewys lever dat die besit van sodanige drank deur hom of deur enigemand anders geensins wederregtelik was nie.

(2) Enige aldus verbeurdre drank of houer kan verkoop of vernietig word, of daar kan andersins daaroor beskik word, al na die Administrateur beveel."

28. Artikel een van die Brouwers en Distilleerders Licentie Belasting Proklamatie 1924 (Proklamasie 3 van 1924), soos gewysig, word hierby nogmaals gewysig—

(a) deur in sub-paragraaf II van paragraaf (a) die woorde „doch, behalwe zoals hierna bepaald, niet vanaf enige dépôt op een andere plaats geleë“ te skrap; en

(b) deur beide voorbehoudsbepalings van sub-paragraaf II te herroep.

29. Die Wysigingsordonnansie op Licensierechte vir Brouers en Distilleerders 1938 (Ordonnansie 1 van 1938) word hierby herroep.

30. Elke licensie uitgereik ingevolge die bepalings van sub-paragraaf II van paragraaf (a) van artikel een van die Brouwers en Distilleerders Licentie Belasting Proklamatie 1924 (Ordonnansie 3 van 1924), soos gewysig, wat die houers van 'n spesiale groothandellisensie vir bierbrouers toelaat om die produk van sy vervaardiging uit 'n dépôt te verkoop of te verskaf, wat in hierdie Ordonnansie 'n spesiale groothandel-depôtlisensie vir bierbrouers heet en wat moontlik by die inwerkingtreding van hierdie Ordonnansie nog nie verstrek het nie, moet ten opsigte van die verkoope en transaksies wat so 'n licensie magtig, sowel as die regte en verpligte van die houers daarvan en van elke betrokkenheid by sodanige verkoope en transaksies, tot dat dit op 31 Maart 1953 verstrek, behandel en bereg word asof die bepalings van die genoemde Proklamasie, wat by artikels agt-en-twintig en negen-en-twintig van hierdie Ordonnansie gevysig en herroep word, steeds bly geld: Met dien verstande dat geen bepalings van hierdie artikel inbreuk maak op die werking van die bepalings van artikel vyf-en-sestig bis van die hoofproklamasie soos ingevoeg by artikel twintig van hierdie Ordonnansie nie: Met dien verstande voorts, dat die bepalings van artikel een van die Brouwers en Distilleerders Licentie Belasting Proklamatie 1924, soos gewysig, ten spyte, dat houer van 'n spesiale groothandellisensie vir bierbrouers op Geloftdag geen verkope vanuit 'n dépôt mag doen nie.

31. Die Tweede Bylae van die hoofproklamasie word hierby gewysig—

(a) deur na die woord „bottellicentie“ in paragraaf (6) die woorde „of een spesiale groothandeldepôt licensie voor bierbrouers“ in te voeg; en

(b) deur die onderstaande paragraaf by te voeg:—

"(10) Vir 'n spesiale groothandeldepôtlisensie vir bierbrouers vir een jaar . . . £10."

32. Hierdie Ordonnansie heet die Wysigingsordonnansie op Dranklisensies 1952.

DRAFT ORDINANCE

To amend the law relating to fencing.

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa as follows:—

1. The following section is hereby substituted for section eleven of the Second Schedule to the Fencing Proclamation (Proclamation 57 of 1921)—

"11. (1) The board shall have power to award to either owner as against the other owner the costs of and incidental to the determination of the matter, including the remuneration of and reasonable expenditure by the board.

(2) The Administrator shall from time to time, fix the daily remuneration payable to a member of the board."

2. This Ordinance shall be called the Fencing Amendment Ordinance, 1952.

ONTWERPORDONNANSIE

Ter wysiging van die wet op omheining.

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika VERÖRDEN:—

1. Die volgende artikel vervang hierby artikel elf van die tweede bylae van die „Omheinings Proklamatie“ (Proklamasie 57 van 1921) —

,11. (1) Die raad is bevoeg om aan een cienaar teenoor die ander cienaar sowel die koste van die saak as die koste wat die uitwyse daarvan meebring, toe te ken, met inbegrip van die rand se besoldiging en sy redelike uitgawe.

(2) Die Administrateur bepaal van tyd tot tyd die daaglikse besoldiging wat aan 'n lid van die raad betaal moet word."

2. Hierdie Ordonnansie heet die Wysigingsordonnansie op Omheining 1952.