

Uganda

## Enguli (Manufacture and Licensing) Act Chapter 86

Legislation as at 31 December 2000

FRBR URI: /akn/ug/act/1964/37/eng@2000-12-31

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PDF created on 21 February 2024 at 17:06.

*Collection last checked for updates: 31 December 2000.*

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# Enguli (Manufacture and Licensing) Act

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# Uganda

## Enguli (Manufacture and Licensing) Act

### Chapter 86

Published

Commenced on 20 January 1965

*[This is the version of this document at 31 December 2000.]*

*[Note: The version of the Act as at 31 December 2000 was revised and consolidated by the Law Reform Commission of Uganda. All subsequent amendments have been researched and applied by Laws.Africa for ULII.]*

**An Act to regulate the manufacture, licensing and sale of enguli and for other purposes connected therewith.**

### Part I — Interpretation

#### 1. Interpretation

In this Act, unless the context otherwise requires—

- (a) **"area licensing board"** means a board appointed under [section 4](#);
- (b) **"authorised officer"** means any administrative officer, any police officer, any chief or any other person designated by the Minister to be an authorised officer for the purposes of this Act;
- (c) **"Central Licensing Board"** means the board established by [section 3](#);
- (d) **"collecting centre"** means a place established by the Minister under [section 6\(3\)\(a\)](#) for the purchase of enguli by the exclusive licensee from the holders of enguli licences;
- (e) **"distil"** includes "redistil";
- (f) **"enguli"** means any spirits manufactured in Uganda but does not include refined spirits or any other spirits produced locally by the exclusive licensee;
- (g) **"exclusive buying licence"** means a valid licence granted under [section 6](#), and "exclusive licensee" shall be construed accordingly;
- (h) **"jaggery manufacturing licence"** means a licence granted under [section 13](#);
- (i) **"refined spirits"** means potable spirits, blended from a specially prepared alcoholic concentrate and pure neutral spirit produced from enguli; the resultant blend, after a suitable period of maturing, being reduced or let down with treated water to drinking strength for bottling, and which is manufactured by the exclusive licensee and marketed under the trademark of "Uganda Waragi" or any other trademark approved by the Minister by statutory order.

### Part II — Licensing of enguli

#### 2. Prohibition of manufacture, sale, etc. of enguli without licence

- (1) No person shall—
  - (a) manufacture, sell or otherwise deal in enguli;
  - (b) have in his or her possession any enguli; or

- (c) have in his or her possession or under his or her management or control any apparatus used or intended to be used for the manufacture of enguli,
- except under or by a virtue of a licence issued to him or her under this Act.
- (2) No person shall consume enguli.
- (3) No person shall export enguli.

### **3. Establishment of Central Licencing Board**

- (1) There is established a Central Licensing Board which shall comprise a chairperson and six other members all of whom shall be appointed by the Minister.
- (2) The chairperson and members of the board shall hold office for two years from the date of their appointment but shall be eligible for reappointment.
- (3) The Minister may at any time in his or her discretion revoke any appointment and may appoint another person to fill the resulting vacancy for the remaining period during which the revoked appointment would have subsisted.
- (4) The chairperson and any other member of the board may resign from the board by notice in writing addressed to the Minister, and as from the date specified in that notice or, if no date is specified, from the date of the receipt of the notice, that person shall cease to be a member of the board, and the Minister may appoint another person to fill the resulting vacancy.

### **4. Objects and functions of Central Licensing Board**

It shall be the duty of the Central Licensing Board—

- (a) to comply with any direction of a general or specific nature which, subject to this Act, the Minister may give to it;
- (b) subject to any directions of the Minister, to determine the total number of enguli licences that may be issued in Uganda in any one year and limit the number of such licences that may be issued in any district by the area licensing board appointed under the provisions of this section;
- (c) to limit the quantity of enguli which may be licensed for manufacture in any one year in each district, the total of the quantities so limited being equal to the quantity which shall be determined by the Minister after consultation with the exclusive licensee to be the total quantity of enguli that may be manufactured in Uganda in the same year;
- (d) to appoint, with the approval of the Minister, for each district, an area licensing board for the purposes of and in accordance with this Act.

### **5. Area licensing boards**

- (1) An area licensing board shall consist of four persons, one of whom shall be the district commissioner of the area.
- (2) The Schedule to this Act shall have effect in relation to every area licensing board.
- (3) The Minister may from time to time by statutory order amend the Schedule to this Act.

### **6. Exclusive buying licence**

- (1) The Minister may by statutory order grant an exclusive buying licence to any person who has obtained a licence to manufacture excisable goods issued to the person under the provisions of the East African Excise Management Act.

- (2) An exclusive buying licence shall remain in force only for so long as the exclusive licensee is in possession of a valid licence issued to him or her under the provisions of the East African Excise Management Act.
- (3) An exclusive buying licence shall be subject to the following conditions—
  - (a) the exclusive licensee shall buy all the enguli offered to it for sale by the holders of enguli licences issued under this Act at such collecting centres as may from time to time be established by the Minister by statutory order; except that the exclusive licensee shall not be required under this paragraph to buy any enguli which is of a strength less than such percentage of alcohol as may from time to time be declared by the Minister by statutory order;
  - (b) the exclusive licensee shall buy enguli offered to it for sale under the provisions of this section at such price per gallon or part of a gallon, and on payment for it on such terms, as may from time to time be fixed by the Minister, in consultation with the exclusive licensee, by rules made under this Act.
- (4) The Minister may fix different prices for different qualities of enguli and for different areas of Uganda.

## 7. Enguli licences

- (1) Subject to this Act, an area licensing board may, on application made to it and on payment of the fee, on such form and at such rate as may be prescribed by the Minister by rules made under this Act, grant to any person an enguli licence.
- (2) An enguli licence shall specify—
  - (a) the premises in respect of which it is in force;
  - (b) the maximum quantity of enguli per month which the holder of the licence is permitted to manufacture for sale to the exclusive licensee;
  - (c) the period of the validity of the licence;
  - (d) the collecting centre at which the holder of the licence shall offer his or her enguli for sale to the exclusive licensee;
  - (e) any other matter which the area licensing board may for the proper carrying out of its functions under this Act specify.
- (3) In addition to complying with any of the matters specified in the licence under subsection (2), every holder of an enguli licence shall also comply with the following conditions, that is to say, he or she shall—
  - (a) not buy or obtain in any way enguli from any other person;
  - (b) not sell or dispose in any way any enguli to any person other than the exclusive licensee or any agent of the exclusive licensee authorised for that purpose by the exclusive licensee;
  - (c) not manufacture any enguli in any one month in excess of the quantity specified in his or her licence; except that where the quantity manufactured in any one month falls short of the permitted quantity, he or she may make up the difference in the next succeeding month while his or her licence is still in force;
  - (d) not hold in his or her possession any stock of enguli in any one month in excess of the quantity he or she is permitted to manufacture for that particular month; but where in any one month his or her stock of enguli exceeds the permitted quantity, he or she shall forthwith report the excess to the area licensing board which may permit him or her to dispose of the excess to the exclusive licensee to be offset against the quantity he or she is permitted to manufacture in the next succeeding month;

- (e) keep such records of his or her manufacture and disposal of enguli during the validity of his or her licence as may be prescribed by rules made by the Minister under this Act.
- (4) The maximum quantity of enguli which the holder of an enguli licence may manufacture in any one month may be enguli of any alcoholic content, and where all or any of the enguli is rejected by the exclusive licensee under [section 6\(3\)\(a\)](#), the enguli licence holder shall not be entitled to manufacture an equivalent quantity of enguli in addition to the maximum quantity specified in his or her licence.
- (5) Any enguli rejected by the exclusive licensee under [section 6\(3\)\(a\)](#) shall be destroyed forthwith by the enguli licence holder or, if not so destroyed, may, subject to subsection (4), be redistilled by him or her for sale to the exclusive licensee in the next succeeding month provided his or her licence is then still in force.
- (6) An enguli licence shall not be transferable.
- (7) Any person who contravenes any of the provisions of this section, or any orders or directions made under it, commits an offence against this Act.

## 8. Refusal of and disqualifications for enguli licences

- (1) An area licensing board may refuse to grant an enguli licence without assigning any reason for the refusal.
- (2) An area licensing board shall not grant an enguli licence to any person who—
  - (a) has not attained the apparent age of eighteen years;
  - (b) has been convicted of an offence under [section 2](#) or [7\(3\)\(a\)](#) or (b) within the period of two years immediately preceding the date of his or her application for the licence;
  - (c) has been adjudged a bankrupt and has not, at the date of his or her application, been discharged, or has entered into a form of composition with his or her creditors; or
  - (d) holds a valid jaggery manufacturing licence issued to him or her under the provisions of Part III of this Act.
- (3) Any applicant aggrieved by a decision of the area licensing board may appeal to the Minister whose decision shall be final.

## 9. Form and duration of enguli licences

- (1) An enguli licence shall be in such form as may be prescribed by the Minister by rules made under this Act.
- (2) An enguli licence—
  - (a) may be issued quarterly or six-monthly or yearly in any one year;
  - (b) shall come into force on the first day of the quarter or on the first day of the six-monthly period or on the first day of the year, as the case may be; and
  - (c) unless earlier revoked under this Act, shall expire on the last day of the quarter or on the last day of the six-monthly period or on the 31st December of the year, as the case may be.

## 10. Revocation of enguli licences

- (1) An area licensing board may revoke any enguli licence issued by it under this Act if the licence holder—
  - (a) subject to the other provisions of this Act, fails to supply to the exclusive licensee the quantity of enguli specified in his or her licence; or

- (b) is convicted of an offence involving moral turpitude under any written law other than this Act and for which a sentence of imprisonment has been passed for any term without the option of fine.
- (2) Where an enguli licence has been revoked under this section, the area licensing board shall by notice in writing require the licence holder, within fifteen days from the date of the notice—
  - (a) to surrender to the board the licence;
  - (b) to sell to the exclusive licensee all the enguli in the licence holder's possession at the date of the revocation of the licence; and
  - (c) to destroy the apparatus used for the manufacture of enguli which is in the licence holder's possession or under his or her control,but where an appeal is made against the revocation of the licence under subsection (3), this subsection shall not apply unless the appeal has been abandoned or is dismissed by the Minister and, in either case, shall have effect on the date on which the appeal has been abandoned or dismissed, as the case may be.
- (3) Any person whose licence has been revoked by the board under this section may, within fifteen days from the date of the notice served upon him or her under subsection (2), appeal to the Minister against the revocation, and the decision of the Minister shall be final.

## 11. Duplicate licences

Where it is satisfied that an enguli licence has been lost or destroyed, the area licensing board shall, on payment of such fee as may be prescribed by the Minister by rules made under this Act, issue a duplicate of the licence to the licensee.

## 12. Special provisions for cooperative societies

- (1) Notwithstanding any other provisions of this Act, where any enguli licence holder is a member of a society registered under the Cooperative Societies Act, that society may by arrangement with the licence holder undertake on behalf of the licence holder to deliver and sell the licence holder's enguli to the exclusive licensee and to receive payment for it.
- (2) Any payment made by the exclusive licensee to a cooperative society under subsection (1) shall be a sufficient discharge for the money due and payable to the licence holder by the exclusive licensee.

## Part III – Manufacture of jaggery

### 13. Manufacture of jaggery

- (1) No person shall manufacture jaggery without a licence being granted for that purpose by the Minister.
- (2) On application made to the Minister and on payment of the fee, on such form and at such rate as may be prescribed by the Minister by rules made under this Act, the Minister may grant to any person a licence to manufacture jaggery.
- (3) A jaggery manufacturing licence shall specify—
  - (a) the premises in respect of which it is in force;
  - (b) the maximum quantity of jaggery which the holder of the licence is permitted to manufacture during the validity of the licence;
  - (c) any other matter which the Minister may, for better carrying out the provisions of this Act, specify.

- (4) A jaggery manufacturing licence shall be in such form as may be prescribed by the Minister by rules made under this Act, and may be issued for a year or for one or more quarters in any year.
- (5) A holder of a jaggery manufacturing licence shall submit to the Minister, or to such other person as the Minister may designate for that purpose, such returns of the production and sale of jaggery and at the intervals as the Minister may by statutory order specify.
- (6) The Minister may revoke any jaggery manufacturing licence granted under this section if the holder of the licence fails to comply with any matters specified in his or her licence or contravenes any of the provisions of this section.
- (7) Any holder of a jaggery manufacturing licence who contravenes any provision of this section commits an offence and is liable on conviction to a fine not exceeding two thousand shillings.

## Part IV – General

### 14. Powers of authorised officers

- (1) An authorised officer may at all reasonable times—
  - (a) enter and inspect any premises, place, or vehicle in which he or she has reasonable cause to believe there is any enguli, or any apparatus used or intended to be used for the manufacture of enguli, or means pertaining to the manufacture or sale of any enguli;
  - (b) inspect any records which a holder of an enguli licence is required to keep under this Act;
  - (c) take such samples of enguli as he or she may deem necessary for the purposes of examination or analysis and call upon the owner or occupier of the premises, place or vehicle in which the enguli is found to provide him or her with all reasonable assistance as he or she may need for so doing;
  - (d) require the owner or occupier of the premises to produce to him or her for inspection the enguli licence issued in respect of the premises under this Act.
- (2) A police officer may arrest without warrant any person suspected of committing an offence under this Act.
- (3) Any person who obstructs or impedes any authorised officer in the execution of his or her duty under this section commits an offence and is liable on conviction to a fine not exceeding five hundred shillings or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

### 15. Protection from personal liability

No act, matter or thing done by an authorised officer or by a supervisor or by any member of any licensing board, or any officer, agent or servant of the board *bona fide* for the purpose of executing any of the provisions of this Act shall render him or her personally liable to any action, liability, claim or demand.

### 16. Offences and penalties

- (1) Any person who contravenes or fails to comply with any of the provisions of this Act or any orders or directions lawfully issued under it commits an offence and is liable on conviction, where no other penalty is provided, to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.



- (2) Where a person is convicted of an offence against section 2 or 7(3)(a) or (b), the court convicting such offender—
- (a) may where the offender is the holder of an enguli licence, in addition to the penalty provided by this section—
    - (i) revoke the licence and order the licence to be surrendered forthwith to the area licensing board; and
    - (ii) order the forfeiture of the enguli and the apparatus used for manufacturing it, in respect of which the offence was committed; and
  - (b) shall, in any other case, in addition to the penalty provided by this section, order the forfeiture of the enguli and the apparatus used for manufacturing it, in respect of which the offence was committed.

## 17. Rules

- (1) The Minister may make rules prescribing—
- (a) the fees to be charged for licences granted under this Act;
  - (b) the forms required to be used under this Act;
  - (c) in consultation with the exclusive licensee, from time to time the prices to be paid by the exclusive licensee for enguli purchased from holders of enguli licences;
  - (d) in consultation with the exclusive licensee, from time to time the maximum prices that may be charged by the exclusive licensee for refined spirits sold by the licensee, either wholesale or retail, to the public;
  - (e) the form of records to be kept by holders of enguli licences granted under this Act;
  - (f) the manner of collection and transport of enguli from licence holders to collecting centres and from collecting centres to the premises of the exclusive licensee, and the storage of the enguli at collecting centres;
  - (g) the powers and duties of the exclusive licensee and its agents in the collection of enguli at collecting centres;
  - (h) the control and regulation of the export of refined spirits;
  - (i) any matter required to be prescribed under this Act; and
  - (j) any other matter for better carrying into effect the provisions of this Act.
- (2) The Minister may by rules make provision for the appointment, functions and duties of supervisors to ensure the orderly collection of enguli at collecting centres in accordance with this Act.

## 18. Allocation of revenue

Fees collected in respect of any enguli licences issued under this Act shall be credited to the revenues of the district in which the licences are issued; except that where fees are collected in respect of any enguli licences issued in any city, municipality or Government town established under the Local Governments Act, the fees shall be credited to the revenue of the respective city, municipality or town.

## 19. Saving

The provisions of this Act shall be in addition to and not in derogation of the provisions of any other written law.

## **Schedule (Section 5)**

### **Area licensing boards**

1. The Central Licensing Board shall appoint a member of the area licensing board to be chairperson of the area licensing board.
2. In the absence of the chairperson at any meeting, the area licensing board shall elect one of their number to be chairperson for that meeting.
3. The quorum for any meeting of the area licensing board shall be three, and every question shall be decided by a majority of the members present and voting; and in the event of an equality of votes, the chairperson shall have a second or casting vote.
4.
  - (1) In any area, the district commissioner of the area shall be the secretary of the area licensing board.
  - (2) All acts of the board may be signified under the hand of the secretary.
5. The appointment of any member of the area licensing board may at any time be revoked by the Central Licensing Board, and the Central Licensing Board may appoint another person to fill the resulting vacancy for the remaining period during which the revoked appointment would have subsisted.
6. Any member of the area licensing board may resign his or her appointment by notice in writing addressed to the Central Licensing Board, and the central licensing board may upon the resignation appoint another person to fill the resulting vacancy.
7. Subject to this Act, an area licensing board may regulate its own procedure not otherwise provided for in this Schedule.