

EAST AFR. PROT.
No. 8419

8419
9 11 08

Governor. No.
ukam 73
1908
10 Feb.
Last previous Paper.
1/26834/5

(Subject)
Native liquor Ordinance
To be authenticated & printed
copies, to issue by the Government

As a Sanction 14.3.03
Copy Order 20.22 Feb. 08
14.539/1009

Mr. Risley (Minutes)
9/3
Please advise the regulations of 1908
Mr. Risley
The provisions as to tax on trees tapped for turpentine are, it is stated, to be postponed under Sec 21 but this, can only be postponed for one year in bill 31 Dec 1908.
S.A. 12/3

next subsequent Paper.
539 05
89

Governor's Office,

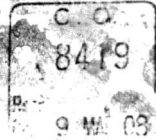
Nairobi,

February 10th 1908.

EAST AFRICA PROTECTORATE.

No. 73

(Incl. 2)



My Lord,

I have the honour to transmit herewith two
authenticated and six printed copies of an Ordinance

Ordinance

Mr. Combe
Dec. 24th 07

for regulating the sale of Native Liquors as passed by
the Legislative Council, together with a memorandum by
the Crown Advocate giving the reasons for its
enactment.

I have the honour to be,

With the highest respect,

My Lord,

Your Lordship's most obedient,

humble servant,



(In the absence of H.E. the Governor)

H.M. PRINCIPAL SECRETARY OF STATE

FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W.

In Despatch No. 73 of 26/10/1908

8419

MEMORANDUM.

9 M 03

The East Africa Native Liquor Ordinance 1907.

1. The objects of this Ordinance are:-

- (i) to make better provision for regulating the sale of Native intoxicating liquors and
- (ii) to impose a tax on the owners of trees which are tapped for palm wine, and on persons who make fermented asali for sale.

By the Native Liquors Regulations (No. 32 of 1900) as amended by the Native Liquors (Licences) Ordinance 1905 all persons selling native intoxicating liquors are required to take out a licence ^{license} ~~from~~ which a fee of Rs. 25, payable. Any person can under these regulations demand a licence as of a right but may only sell liquor at a place to be approved by the licensing authority. It has been generally recognized that it is undesirable that Europeans and Indians should be permitted to sell Native liquors, as they may legally possess intoxicating liquors other than Native liquors and it is therefore difficult to detect or prevent the sale by them of native or whisky and other intoxicating liquors the sale of which to natives is prohibited.

For this reason the new Ordinance by Section 10 prohibits the issuing of licence to any person other than a person of African extraction.

3. The existing laws permit of the sale of native intoxicating liquors at any hour of the day or night, and further provide no penalty for supplying liquor to intoxicated persons. Both the police and ^{the} Officers of the Administration responsible for the maintenance of law and order have requested that these defects in the law may be remedied.

No provision is made by the existing law for the inspection of licensed premises or for searching unlicensed premises on which an illicit sale of native liquors is suspected.

Drumbeze and the natives on the coast due to excessive drinking of tembo is reported to be on the increase and it has therefore been considered advisable not only to increase the fee for a retail licence from 25 rupees to 30 rupees but also to impose a tax on the persons who tap their trees for tembo for sale. I believe that the tree-tax is imposed not only in India, Ceylon and German East Africa but in many other places where tembo is drunk, and the system has the advantage of imposing a direct duty corresponding to the still-head duty on spirit.

The Ordinance under consideration authorises the levying of a tax of one rupee on every tree tapped for tembo for sale. That tax is considerably less than that imposed in many parts of India, but having regard to the fact that the Arab Shamba holders are at the present time in a far from prosperous condition it is considered to be sufficiently high for the time being.

With the exception of fermented Asali for the manufacture of which when intended for sale a licence is required by the Ordinance under consideration, other native intoxicating liquors are reported to contain but a small percentage of alcohol and therefore no duty is imposed on persons making such liquors.

Section 21 of the Ordinance makes provision whereby the Governor may postpone the operation of the Ordinance in so far as it relates to a tree-tax and as I understand that His Excellency intends to postpone the operation of that part of the Ordinance I am of opinion that the Ordinance is one to which His Excellency may consent on behalf of His Majesty.

24th December 1909

8419

9 MAR 08

MEMORANDUM.

The East Africa Native Liquor Ordinance 1907.

1. The objects of this Ordinance are:-

- (i) to make better provision for regulating the sale of Native Intoxicating liquors and
- (ii) to impose a tax on the owners of trees which are tapped for palm wine, and on persons who make fermented meal for sale.

By the Native Liquors Regulations (No. 32 of 1900) as amended by the Native Liquors (Licences) Ordinance 1905 all persons selling native intoxicating liquors are required to take out a licence for which a fee of Rs. 25, payable. Any person can under these regulations demand a licence as of a right but may only sell liquor at a place to be approved by the licensing authority. It has been generally recognised that it is undesirable that Europeans and Indians should be permitted to sell Native liquors, as they may lawfully possess intoxicating liquors other than Native liquors and it is therefore difficult to detect or prevent the sale by them to natives of which and other intoxicating liquors the sale of which to natives is prohibited.

For this reason the new Ordinance by Section 10 prohibits the issuing of licence to any person other than a person of African extraction.

The existing law permit of the sale of native intoxicating liquors at any hour of the day or night, and further provide no penalty for supplying liquor to intoxicated persons. Both the police and ^{the} Officers of the Administration responsible for the maintenance of law and order have requested that these defects in the law may be remedied.

4. No provision is made by the existing law for the inspection of licensed premises or for searching unlicensed premises in which an illicit sale of native liquors is suspected.

5. Drunkenness among the native on the coast due to excessive drinking of tembo is reported to be on the increase and it has therefore been considered advisable not only to increase the fee for a retail licence from 25 rupees to 30 rupees but also to impose a tax on the persons who tap their trees for tembo for sale. I believe that the tree-tax is imposed not only in India, Ceylon and German East Africa but in many other places where tembo is drunk, and the system has the advantage of imposing a direct duty corresponding to the still-head duty on spirits.

The Ordinance under consideration authorises the levying of a tax of one-rupee on every tree tapped for tembo for sale. That tax is considerably less than that imposed in many parts of India, but having regard to the fact that the Arab Shamba holders are at the present time in a far from prosperous condition it is considered to be sufficiently high for the time being.

6. With the exception of fermented Agali for the manufacture of which when intended for sale a licence is required by the Ordinance under consideration, other native intoxicating liquors are reported to contain but a small percentage of alcohol and therefore no duty is imposed on persons making such liquors.

Section 21 of the Ordinance makes provision whereby the Governor may postpone the operation of the Ordinance in so far as it relates to a tree-tax and as I understand that His Excellency intends to postpone the operation of that part of the Ordinance I am of opinion that the Ordinance is one to which His Excellency may consent on behalf of His Majesty.

W. R. ...

W. R. ...

24th December 1909.

THE EAST AFRICA NATIVE LIQUOR ORDINANCE 1907.

Section.

Remarks.

Section 1.
Definition.

Section 1 of the Native Liquor Regulations 1900.

Section 2.
The sale of Native Liquor prohibited except as -- authorised by this Ordinance.

Under this Section the fee for a retail licence is increased from Rs. 25 to Rs. 30.

Section 3.
(1) Tax on trees tapped for tembo.
(2) Licences required by persons making fermented asali.

These Sections are new and are dealt with in the attached Memorandum.

Section 4.
Persons authorised to sell to licenced dealers.

Under this Section persons who have paid a tree tax are authorised to sell the tembo obtained to the holder of a retail licence, and persons licenced to make -- fermented asali may sell the same to a retail dealer.

Section 5.
No sale in a dwelling house.

This is for the purpose of facilitating police supervision of licenced premises.

Section 6.
The discretion of licencing officer unlimited.

Section 7.
Power to search unlicensed premises.

New provision.

Section 8.
Power to enter licensed premises.

New provision.

Section.	Remarks.
Section 9. House for sale of liquor.	New provision.
Section 10. Only natives of Africa may be licensed to sell Native liquors.	New provision, the reason for which is given in the attached Memorandum.
Section 11. Prohibition of sale to intoxicated persons.	New provision.
Section 12. Licences to expire on September 31st.	
Section 13. Licences not to be transferred without leave.	New provision.
Section 14. Penalty.	Penalty for selling without licence of, or unlicensed premises.
Section 15. Penalties.	Penalties for other breaches of the Ordinance.
Section 16. Sale to include barter.	
Section 17. Officers authorized to enter upon private land for purpose of this Ordinance.	This Section makes provision whereby officers may lawfully enter upon any land for the purpose of counting and examining trees for the purposes of levying the tree tax.
Section 18. Licences in Native locations.	It is considered desirable that in townships in which locations have been set apart for natives Native Liquor licences should only be issued in respect of premises situate in these locations.

Section.

Remarks.

Section 19.
Special licences.

Permits of the issuing of a
temporary licence for a period
not exceeding 24 hours.

Section 20.
Pepeal.

Section 1.
Short title.

H. on Green