

SAMOA

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2011, No. 13

AN ACT relating to the sale and supply of liquor and for related purposes.
[11th October 2011]

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

PART I
PRELIMINARY

1. Short title and commencement-(1) This Act may be cited as the Liquor Act 2011.

(2) This Act commences on a date to be nominated by the Minister.

2. Interpretation-(1) In this Act, unless the context otherwise requires:

ōadulterated liquorö means any liquor:

- (a) that contains or is mixed or diluted with any substance which operates, or may operate, in any manner to the prejudice or disadvantage of the purchaser or consumer; or
- (b) that contains or is mixed or diluted with any substance of a commercial value lower than that of such liquor in its normal state and in an undeteriorated and sound condition; or
- (c) from which any substance or ingredient has been extracted or omitted, and by reason of such extraction or omission the nutritive properties of the liquor as sold are less than that of such liquor in its normal state, or in a manner where the purchaser or consumer is or may be prejudiced.

ōAlii and Faipuleö means the customary titleholders who:

- (a) hold matai titles registered in the Register of Matais established and kept under section 22 of the Land and Titles Act 1981; and
- (b) reside or have title or an interest to land in the immediate area surrounding the land upon which an application for licensed premises is made.

ōappointed memberö means a member of the Board appointed under section 7(1);

ōapproved feeö means the fee approved by the Minister by notice issued to that effect;

ōapproved formö means a form approved by the Minister to be used under this Act;

ōBoardö means the Liquor Control Board established under section 5;

ōChief Executive Officerö means the Comptroller of Customs authorised under section 6 of the Customs Act 1977;

õchurchö means a congregation of people exercising their right to worship at a regular place of worship;

õemployeeö means a person employed in a Ministry but does not include a Chief Executive Officer;

õimportö means the importation of liquor into Samoa in any manner, whether lawfully or unlawfully, they are brought into or come within the territorial limits of Samoa from any country outside Samoa;

õlicenceö means a licence issued under this Act to either:

- (a) sell or supply liquor; or
- (b) manufacture liquor; or
- (c) import liquor.

õlicensed premisesö means premises for which a licence is in force;

õlicenseeö means a holder of a licence issued under this Act;

õliquorö includes:

- (a) a beverage which, at 20° Celcius contains more than 1.15 percent ethanol by volume;
- (b) anything that is not a beverage referred to in paragraph (a) but, for the purposes of sale, is held out to be beer or spirits;
- (c) any spirits, wine, ale, beer, stout, cider, or any other fermented, distilled or spirituous liquor ordinarily used as a beverage which contains more than two (2) parts percent of proof spirit;
- (d) any other substance prescribed by regulations as liquor.

õliquor inspectorö means a liquor inspector appointed under section 36;

õMinisterö means the Minister responsible for Revenue;

õMinistryö means the Ministry responsible for Revenue;

õnightclubö means licensed premises that have the right to charge entry fees;

õprevious Actö means the Liquor Act 1971;

õsecretaryö means the secretary to the Board authorised under section 8;

õserious offenceö means an offence that is punishable by imprisonment for a minimum period of three (3) years.

(2) For the purposes of this Act, a person is taken to sell liquor to another person if the person supplies liquor to the other person for, or in expectation of, any reward or benefit to be paid or provided by the other person or any other person, whether or not a person is under an obligation to pay or provide a reward or benefit for that supply.

3. Object of this Act - The object of this Act is to promote and encourage responsibility in the manufacture, import, sale and consumption of liquor through the establishment of a scheme of liquor licences.

4. Act to bind the Government - This Act binds the Government.

PART II ADMINISTRATION

5. Continuation of the Board - The Liquor Control Board established under section 3 of the Liquor Act 1971 is continued under this Act and operates and is managed in accordance with this Act.

6. Functions and powers of the Board - The Board has the following functions and powers:

- (a) consider and decide applications for a licence under this Act;
- (b) consider complaints made in relation to licensed premises and any other relevant matter under this Act;
- (c) conduct inquiries and hearings taking into account complaints brought under paragraph (b);
- (d) advise the Government in relation to the control of the manufacture, sale and consumption of alcohol in Samoa or other matters referred to it under this Act;
- (e) determine the price payable to a licensee for liquor sold by the licensee, or from licensed premises;
- (f) set by public notice the opening and closing hours for the sale of liquor for licensed premises;
- (g) decline, grant, issue, suspend or cancel licenses for the importation, manufacture and sale of liquor;
- (h) monitor and regulate activities of licensees;
- (i) determine licensing fees, advise Government of such licensing fees, and publish such licensing fees in the Savali;
- (j) exercise other functions and powers provided under this Act or any other law.

7. Membership of Board-(1) The Board shall consist of the following members:

- (a) the Minister who shall be the chairperson;

- (b) the Chief Executive Officer of the Ministry or his or her representative;
 - (c) the Chief Executive Officer of the Ministry responsible for health or his or her representative;
 - (d) the Chief Executive Officer of the Ministry responsible for Finance or his or her representative;
 - (e) the Attorney General or his or her representative;
 - (f) the Commissioner of the Samoa Police Service or his or her representative;
 - (g) five (5) other members appointed by Cabinet from the private sector and the community.
- (2) A member appointed under subsection (1)(g) and (h) must be appointed in writing and hold office for a period specified in the instrument of appointment provided that the period shall not be more than three (3) years.
- (3) Cabinet may terminate the appointment of an appointed member:
- (a) for misbehaviour; or
 - (b) for physical or mental incapacity; or
 - (c) if the appointed member fails to attend three (3) consecutive Board meetings, except with leave of absence granted in writing by the chairperson.

8. Secretary to the Board - There shall be a secretary to the Board who shall be an employee of the Ministry.

9. Meetings of the Board-(1) The chairperson of the Board may call meetings of the Board as often as the chairperson considers necessary and at such times and places as the chairperson determines for the efficient exercise of the functions and powers of the Board.

(2) The chairperson must preside over every meeting of the Board, or if the chairperson is absent, the members present may elect another member to chair.

(3) A quorum is constituted by six (6) members.

(4) Matters to be decided at a meeting of the Board must be decided by a majority of votes of the members present and voting.

(5) The chairperson or the member presiding over a meeting of the Board shall have a deliberative vote and, in the event of an equality of votes, shall have a casting vote.

(6) The secretary must take and keep minutes for every Board meeting.

10. Hearings held by the Board-(1) Before a hearing by the Board is held under this Act, the secretary must set a time, date and place for the hearing and must, in no less than seven (7) working days before that date, serve a notice of the time, date and place of hearing on:

- (a) the licensee, for a matter relating to the cancellation or suspension of a licence; or
- (b) in any other case, the applicant.

(2) The Board may determine the procedure for conducting a hearing under this Act.

(3) At a hearing, the Board must give the following an opportunity to be heard:

- (a) the applicant;
- (b) the relevant licensee for a matter relating to the cancellation or suspension of a licence;
- (c) any other person likely to be adversely affected by the hearing.

(4) At a hearing, the Board is not bound by the rules of evidence, but may inform itself in the way it considers appropriate.

11. Standard of proof - The Board must decide all matters before it and the existence of facts relevant to those matters on the basis of proof on the balance of probabilities.

PART III

SALE AND CONSUMPTION OF LIQUOR

12. Sale of liquor without a licence - A person who sells or exposes for sale any liquor, except in accordance with a licence, commits an offence and is liable to imprisonment for a term not exceeding six (6) months or to a fine not exceeding 50 penalty units, or both.

13. Sale of adulterated liquor - A licensee who sells adulterated liquor commits an offence and is liable to imprisonment for a term not exceeding three (3) months or to a fine not exceeding 25 penalty units, or both.

14. Sale or supply of liquor to a person under 21 years-(1) A person, other than a licensee under subsection (4), who sells or supplies liquor to a person under the age of 21 years commits an offence and is liable to imprisonment for a term not exceeding six (6) months or to a fine not exceeding 50 penalty units, or both.

(2) It is a defence to a prosecution under this section that, at the time of the alleged offence, the defendant was shown lawful form of proof that the person liquor was sold to is of 21 years of age or over.

(3) A person under the age of 21 years who buys liquor commits an offence and is liable to a fine not exceeding 5 penalty units.

(4) A licensee of a food and beverage licence may sell or supply liquor to a person under the age of 21 years provided that the person is under the supervision of an attending parent.

(5) A person who, without lawful excuse, sends or allows a person under 21 years of age to buy or collect liquor commits an offence and is liable to imprisonment for a term not exceeding three (3) months or to a fine not exceeding 25 penalty units, or both.

15. Sale or supply of liquor to intoxicated persons-(1) A licensee who sells or supplies liquor to a person reasonably believed to be intoxicated commits an offence and is liable to imprisonment for a term not exceeding three (3) months or to a fine not exceeding 25 penalty units, or both.

(2) A person is reasonably believed to be intoxicated if it appears that the person's speech, balance, coordination or behaviour is negatively affected by the consumption of alcohol.

16. Consumption of liquor in certain places-(1) A person who, without lawful excuse or reason:

(a) consumes liquor in a public place or prescribed place; or
(b) possesses an open container of liquor in a public place or prescribed place,
commits an offence and is liable to imprisonment for a term not exceeding three (3) months or to a fine not exceeding 25 penalty units, or both.

(2) Subsection (1) does not apply to the consumption or possession of liquor at a time and place specified in a temporary licence.

(3) In this section, "public place" includes the following, other than during the course of an official function lawfully held thereon:

- (a) any road, street, footpath, alley, sea wall or any thoroughfare of a public nature;
 - (b) any vehicle on a public road;
 - (c) any passenger carrying vessel;
 - (d) any village malae;
 - (e) any other place prescribed by regulations to be a public place for a specified period for the purposes of this section.
- (4) In this section, "prescribed place" means:
- (a) a place, not being a residential premises, that -
 - (i) is within 50 meters of a church; or
 - (ii) is within 50 meters of a licensed premises; or
 - (iii) is prescribed by regulations to be a prescribed place for the purposes of this section; or
 - (b) a market place, wharf or jetty accessible by the public; or
 - (c) a hospital; or
 - (d) a school.

PART IV **LICENCES**

17. Classes of licences - After receiving and considering an application for a license in accordance with the requirements of this Act, the Board may issue a licence of the following classes:

- (a) wholesale licence;
- (b) retail sale licence;
- (c) food and beverage licence;
- (d) bar licence;
- (e) nightclub licence;
- (f) temporary licence;
- (g) licence to import liquor subject to Part V;
- (h) licence to manufacture liquor subject to Part VI.

18. Wholesale licence - A wholesale licence authorises the licensee to sell liquor wholesale in sealed containers during prescribed times or at times set out in the licence for consumption away from licensed premises.

19. Retail sale licence-(1) A retail sale licence authorises the licensee to sell liquor to the general public in sealed containers during prescribed times or at times set out in the licence for consumption away from the licensed premises.

(2) Regulations may be made to prohibit a licensee of a retail sale licence from selling liquor of a prescribed kind.

20. Food and beverage licence - A food and beverage licence authorises the licensee to sell liquor during prescribed times or at times set out in the licence as ancillary to a meal consumed at the licensed premises, provided that such liquor is not removed from or taken off the licensed premises.

21. Bar licence-(1) A bar licence authorises the licensee to sell liquor during prescribed times or at times set out in the licence for consumption on the licensed premises.

(2) Regulations may be made to prohibit a licensee of a bar licence from selling liquor of a prescribed kind.

(3) The Board shall not issue a bar licence to an applicant whose premises is situated within 50 metres of a hospital, church or school.

22. Nightclub licence-(1) A nightclub licence authorises the licensee to sell liquor during prescribed times or at times set out in the licence for consumption on the prescribed premises.

(2) Regulations may be made to prohibit a licensee of a nightclub licence from selling liquor of a prescribed kind.

(3) The Board shall not issue a nightclub licence to an applicant whose premises are situated within 50 metres of a hospital, church or school, provided that the applicant's premises was erected at a time after the hospital, church or school was erected.

23. Temporary licence-(1) A temporary licence authorises the licensee to import and sell liquor during limited times set out in the licence for consumption in an area specified in the licence.

(2) Regulations may be made to prohibit a licensee of a temporary licence from selling liquor of a certain kind.

24. Application for a licence under this Part and Part V-(1) An application for the issue of a wholesale licence, a retail sale licence, a food and beverage licence, a bar licence, a nightclub licence, a temporary licence or a licence to import

liquor must include the following, be addressed to the secretary, and be accompanied by the approved fee:

- (a) the name and address of the applicant;
- (b) the details of the premises to be licensed;
- (c) information concerning any criminal conviction of the applicant;
- (d) a valid business licence except where the application is for a temporary licence under section 23;
- (e) any other information as prescribed or that the secretary considers that the Board may require.

(2) The Board shall not consider an application for the issue of a wholesale licence, a retail sale licence, a food and beverage licence, a bar licence, a nightclub licence, a temporary licence or a licence to import liquor if the approved fee required under subsection (1) has not been paid.

(3) If information provided by an applicant under this section is false, misleading, defective in any particular, or if any document provided by the applicant under this section is not genuine, false or misleading:

- (a) the applicant commits an offence and is liable upon conviction to a fine not exceeding 20 penalty units; and
- (b) if the applicant has been issued a licence, the licence is automatically cancelled.

25. Secretary may require further information-(1) The secretary may, by notice in writing, require an applicant for a licence, to do one (1) or more of the following:

- (a) provide, in accordance with directions in the notice, such information verified by statutory declaration as is relevant to the investigation of the application and is specified in the notice;
- (b) produce, in accordance with directions in the notice, such records as are relevant to the investigation of the application and permit examination of the records, the taking of extracts from them and the making of copies of them;
- (c) furnish such authorities and consents as the secretary requires for the purpose of obtaining information (including financial and other confidential information) from other persons concerning the applicant.

(2) The Board may refuse to consider or may decline an application for a licence if a requirement under this section is not complied with.

26. Matters to be considered in deciding on an application for a licence under this Part - For the purposes of making a decision in relation to an application for the issue of a wholesale licence, a retail sale licence, a food and beverage licence, a bar licence, a nightclub licence, or a temporary licence, the Board must consider the following matters:

- (a) whether the applicant is a fit and proper person to hold a licence;
- (b) whether it is appropriate to grant the licence for premises in the area to which the application relates;
- (c) whether the premises to which the application relates are fit and proper premises for the purpose of the licence;
- (d) the applicant's understanding of the obligations of a licensee under this Act;
- (e) whether the applicant has contravened a provision of this Act;
- (f) where applicable, the consent of the Alii and Faipule of the village where the premises to which the application relates are to be situated;
- (g) whether the applicant has been convicted of a serious offence, in which case, he or she may not be granted a licence;
- (h) any objections to the application;
- (i) the public interest.

27. Grant of licence under this Part-(1) The Board may grant the issue of or decline the issue of a wholesale licence, a retail sale licence, a food and beverage licence, a bar licence, a nightclub licence, or a temporary licence after considering:

- (a) the matters under section 26; and
- (b) any objection made under subsection (2); and
- (c) any response under subsection (3) by the applicant to those objections.

(2) A person may object to the grant of a wholesale licence, a retail sale licence, a food and beverage licence, a bar licence, a nightclub licence, or a temporary licence on one (1) or more of the following grounds:

- (a) that the applicant is not a fit and proper person to be the holder of a licence;
- (b) that it is not appropriate to grant the liquor licence for premises in that area;
- (c) that for other reasons it would not be in the public interest to grant the licence.

(3) Where objections to the grant of a wholesale licence, a retail sale licence, a food and beverage licence, a bar licence, a nightclub licence, or a temporary licence have been made, the secretary shall inform the applicant of the nature of those objections and provide the applicant with an opportunity to respond.

28. Duration of licence - A licence commences on the date nominated on the licence or in the absence of such date, on the day that it is issued and unless renewed, extended, suspended or revoked, remains in force until the 31st December in the year of its issue.

29. Renewal of licence-(1) An application for the renewal of a licence granted under section 27, 38 or 45 must be made in the approved form and accompanied by the approved fee at least one (1) month prior to its expiration.

(2) A licensee is not liable for prosecution for failing to hold a licence if the licensee:

- (a) made proper application under this section for renewal of the licence within 30 days of expiry of the licence; and
- (b) accompanied the application for renewal of the licence with a late application fee to be prescribed by regulations; and
- (c) subsequently received renewal of the licence.

30. Conditions attached to a licence-(1) The Board may impose conditions not inconsistent with this Act to which a wholesale licence, a retail sale licence, a food and beverage licence, a bar licence, a nightclub licence, or a temporary licence is to be subject.

(2) A wholesale licence, retail sale licence, food and beverage licence, bar licence, nightclub licence, and a temporary licence is subject to any conditions imposed under subsection (1), whether or not any such condition is endorsed on the licence.

(3) Except as approved by the Board, the sale of liquor on Sunday is prohibited and is accordingly a condition of a wholesale licence, a retail sale licence, a food and beverage licence, a bar licence, a nightclub licence, and a temporary licence. Without limiting this section, the Board may impose conditions setting out one (1) or more of the following:

- (a) the times during which liquor may be sold or consumed at the licensed premises;
- (b) restrictions on how liquor may be sold from the licensed premises;
- (c) restrictions on the maximum number of persons who may be in the licensed premises at any time;
- (d) restrictions on noise at the licensed premises;
- (e) the times the licensed premises may open or close.

(4) The Board may vary or revoke a condition of a wholesale licence, a retail sale licence, a food and beverage licence, a bar licence, a nightclub licence, or a temporary licence at any time.

31. Employment of security staff at licensed premises - It is a condition of a bar license and a nightclub licence that the licensee must employ persons as security staff who:

- (a) are of good character and standing; and
- (b) have not been convicted of a serious offence; and
- (c) have undertaken relevant training in security work.

32. Signs required in licensed premises-(1) Subject to subsections (2) and (3), it is a condition of a licence that the licensee shall at all times:

- (a) prominently display at every entrance to the licensed premises a sign in the approved form that sets out -
 - (i) the restriction on the sale of liquor to, and the consumption of liquor by, persons under the age of 21 years; and
 - (ii) the restriction on the sale of liquor on Sundays and other days as specified by the Board; and
 - (iii) opening and closing hours for the licensed premises; and
 - (iv) such other rule(s) as the Board may require; and

(b) where the licensed premises is a bar or nightclub, prominently display at every entrance to the bar or nightclub, a sign prohibiting the entrance of a person under the age of 21.

(2) Subsection (1)(a)(i) does not apply to a licensee of a food and beverage licence, provided the selling to and consumption of liquor by a person under the age of 21 is under the supervision of an attending parent.

(3) Subsection (1) does not apply to a licensee of a licence to manufacture liquor.

33. Keeping records - It is a condition of a licence that a licensee must:

- (a) keep accurate records of all liquor acquired and held for sale by the licensee; and
- (b) make those records available for inspection by the Board, liquor inspector or a police officer.

34. Transfer of a licence-(1) A licensee must not transfer a licence issued under this Act except with the prior written approval of the Board.

(2) The Board may attach conditions to an approval given for the purposes of subsection (1).

35. Alteration and relocation of licensed premises-(1) A licence held by a licensee shall not apply to new or relocated premises of the same licensee.

(2) Where a licensee physically alters the structure of the licensed premises and the alteration does not comply with the current licence conditions, the licence is regarded null and void.

(3) A licensee must apply and obtain a new licence once the licensed premises is altered, if applicable or relocated.

PART V IMPORT OF LIQUOR

36. Import of liquor-(1) For the purpose of this section, òspiruous liquorö includes alcohol, low wines, feints and every other description of spirituous liquor.

(2) Subject to subsection (3), a person who imports liquor without a licence to import liquor issued under this Act or not in accordance with conditions of a licence to import liquor imposed under section 39, commits an offence and is liable to:

- (a) an immediate fine not exceeding 1 penalty unit; or

(b) upon conviction, imprisonment for a term not exceeding six (6) months or to a fine not exceeding 50 penalty units, or both.

(3) Subsection (2) does not apply to a person of or over the age of 21 years who enters Samoa and brings as part of his or her personal luggage and exempt from customs duty two (2) bottles of spirituous liquor containing not more than 2250ml in total.

(4) A person who does any of the following in breach of this section shall be guilty of an offence and is liable to imprisonment for a term not exceeding three (3) months or to a fine not exceeding 25 penalty units, or both:

- (a) carries, conveys or conceals any liquor;
- (b) knowingly possesses or controls liquor.

37. Matters for Board to consider for an application for a licence to import liquor - The Board shall consider the following in determining whether or not to grant a licence to import liquor:

- (a) whether the person is fit and proper to hold the licence;
- (b) whether it is in the public interest to grant the licence.

38. Grant of a licence to import liquor-(1) Subject to subsection (2), after considering the matters referred to in section 37, the Board may issue to the applicant a license to import liquor as specified in the license.

(2) The Board may not grant a license to import liquor:

- (a) to an applicant who has been convicted of a serious offence; or
- (b) unless prescribed reports are provided from the Ministry of Police and from the Excise Division of the Ministry responsible for Customs.

(3) A license granted under this section commences on the day that it is issued and unless renewed, suspended or revoked, remains in force until 31st December in the year of its issue.

39. Conditions for a licence to import liquor-(1) A licence to import liquor must be subject to:

- (a) conditions imposed by the Board not inconsistent with this Act, whether or not such conditions are endorsed on the license; and
- (b) any other prescribed conditions.

(2) without limiting the generality of this section, the Board may impose a condition to:

- (a) set the prescribed limits of alcohol for liquor that may be imported; or
- (b) set restrictions on how liquor may be imported.

(3) The Board may vary or revoke a condition of a licence to import liquor granted under this Part.

40. Breach of conditions for a licence to import liquor -

A licensee for a licence to import liquor who, without lawful excuse, breaches a condition of the licence commits an offence and is liable to imprisonment for a term not exceeding six (6) months or to a fine not exceeding 50 penalty units, or both.

41. Minister may import liquor-(1) The Minister, upon Cabinet approval and at the cost of the Ministry responsible for Finance on behalf of the Government, may purchase and import into Samoa such liquor, of such nature as the Minister thinks fit for sale or use in accordance with this Act.

(2) The Minister may delegate his or her power under subsection (1) to the Chief Executive Officer.

PART VI
MANUFACTURE OF LIQUOR

42. Manufacture of liquor-(1) A person may manufacture liquor only if the person is issued a licence under sections 17(h) and 45(1).

(2) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for a term not exceeding six (6) months or to a fine not exceeding 50 penalty units, or both.

(3) A person who is convicted for a second offence under subsection (1) shall be liable to imprisonment for a term not exceeding 12 months or to a fine not exceeding 100 penalty units, or both.

43. Application for a licence to manufacture liquor-(1) An application for the issue of a licence to manufacture liquor must be addressed to the secretary and accompanied by the approved fee.

(2) The applicant must:

- (a) provide prescribed information and any other information that the secretary considers the Board may require; and
- (b) provide a prescribed report from the Ministry responsible for Health; and
- (c) provide the brewing methods and formula/formulae to be used by the manufacturer; and

(d) provide the qualifications of the brew master to be employed by the manufacturer.

(3) The Board shall not consider an application for the issue of a licence under this Part if the approved fee required under subsection (1) has not been paid.

(4) Where, before an application for a licence to manufacture liquor is disposed of, a change occurs in the information provided in, or in connection with, the application, the applicant shall give the secretary a notice in writing specifying particulars of the change.

44. Matters for Board to consider for an application for a licence to manufacture liquor - The Board shall consider the following in determining whether or not to grant a licence to manufacture liquor:

- (a) whether the person is fit and proper to hold the licence;
- (b) whether it is in the public interest to grant the licence;
- (c) whether the applicant has been convicted of a serious offence, in which case, he or she may not be granted a licence.

45. Grant of a licence to manufacture liquor-(1) After considering the matters under section 44, the Board may grant to the applicant a licence to manufacture liquor on the premises prescribed in the licence.

(2) A licence to manufacture liquor granted under this section commences on the day that it is issued and unless renewed, suspended or revoked, remains in force until 31st December in the year of its issue.

46. Conditions for a licence to manufacture liquor-(1) A licence to manufacture liquor granted under this Part is subject to:

- (a) conditions imposed by the Board not inconsistent with this Act, whether or not such conditions are endorsed on the license; and
 - (b) any other prescribed conditions.
- (2) Without limiting the generality of this section, a condition may be imposed by the Board to:
- (a) set the prescribed limits of alcohol for liquor that may be manufactured; or
 - (b) set restrictions on how liquor may be manufactured.
- (3) The Board may vary or revoke a condition of a license to manufacture liquor granted under this Part.

47. Breach of conditions for a licence to manufacture liquor - A licensee of a licence to manufacture liquor who, without lawful excuse, breaches a condition of the licence commits an offence and is liable to imprisonment for a term not exceeding six (6) months or to a fine not exceeding 50 penalty units, or both.

PART VII **ENFORCEMENT, SUSPENSION, AND CANCELLATION OF LICENCES**

48. Liquor inspector-(1) The Chief Executive Officer may appoint one (1) or more employees of the Ministry to be a liquor inspector or liquor inspectors.

(2) The Chief Executive Officer may, upon the approval of the Board, issue to a liquor inspector an identity card containing the following:

- (a) liquor inspector's name;
- (b) recent photograph of the liquor inspector;
- (c) issue and expiry dates of the identity card.

49. Powers of entry and inspection-(1) A police officer or a liquor inspector may, at any time when the sale or manufacture of liquor is authorised by a licence, enter and inspect the prescribed premises in relation to which the licence was issued.

(2) Except for a dwelling place, if under the circumstances, an immediate search is required and there is no time to apply for a search warrant, the Minister may give approval in writing for a police officer or liquor inspector to enter and inspect any

premises at any time when there are reasonable grounds for suspecting that liquor is being sold or manufactured at the premises.

(3) A police officer or liquor inspector who enters a premise pursuant to this section may examine, take stock of, or take samples of any liquor on the premises or any other material that may be evidence of an offence under this Act.

(4) A police officer or liquor inspector who enters a premise pursuant to this section may examine and seize any records kept by the licensee, owner or occupant of the premise in relation to a matter that may be an offence.

(5) A police officer or liquor inspector who enters a premise pursuant to this section may seize any liquor in the premise which is not satisfactorily accounted for by any owner or occupant of the premise.

(6) A police officer or liquor inspector who enters a premise pursuant to this section may require the name, age and address of any person on the premise and upon such requirements the person must provide the required information.

(7) A liquor inspector who enters premises pursuant to this section is not entitled to remain on the premises if the liquor inspector does not produce his or her identity card on request by the occupier or licensee of the premises.

(8) A police officer or liquor inspector exercising the power of entry and inspection under this section must, within 72 hours after the inspection, submit to the Chief Executive Officer and to the secretary a report in writing stating the reason for and result of the inspection.

(9) A person who does not comply with subsection (6) commits an offence and is liable upon conviction to imprisonment for a term not exceeding three (3) months or to a fine not exceeding 25 penalty units, or both.

50. Directions from the liquor inspector or police officer-(1) If a liquor inspector or police officer reasonably believes that the number of people in or on licensed premises exceeds the number specified in the licence as the maximum number that can be in or on the licensed premises at any time:

- (a) the liquor inspector or police officer may direct the licensee to require people to leave the premises;
- and

(b) the liquor inspector or police officer may remove people from the licensed premises with such force and assistance as is necessary and reasonable if -

(i) a licensee fails to comply with a direction under paragraph (a); or

(ii) people remain in the licensed premises after being required by the licensee under paragraph (a) to leave the premises.

(2) If the licensee referred to under subsection (1) is not on the licensed premises, the liquor inspector or police officer may make the direction under subsection (1)(a) to an employee of the licensee and such a direction is deemed to be a direction to the licensee.

(3) A licensee who fails to comply with a direction of the liquor inspector or police officer given under subsection (1)(a) is deemed to have breached a condition of the licence if confirmed by the Board after a hearing under this Part.

(4) A person who obstructs, hinders or interferes with the execution of duties of a police officer or liquor inspector under this Act commits an offence and is liable upon conviction to imprisonment for a term not exceeding three (3) months or to a fine not exceeding 25 penalty units, or both.

51. Evidence of certain matters-(1) In any proceedings under this Act, evidence of delivery or supply of liquor is evidence of a sale of the liquor.

(2) Subject to subsection (3), in any proceedings under this Act, a certificate signed by the secretary stating that on a specified day, a specified person was or was not the holder of a licence of the specified kind in relation to the specified premises is prima facie evidence of the matters so stated.

(3) A request may be made by the Board for the secretary to appear in the proceedings for the purpose of examination.

52. Quiet and good order of neighbourhood-(1) The Board may hold a hearing in relation to a complaint made to it in writing of undue disturbance of the quiet and good order of the neighbourhood of licensed premises caused by the following:

(a) the manner in which the business or operation of the licensed premises is conducted;

(b) the behaviour of persons within the licensed premises;

(c) any other matter the Board decides warrants a hearing.

(2) A complaint may relate to more than one (1) licensed premises and a hearing convened in relation to the licensed premises may be extended to include any other licensed premises if the Board considers it appropriate.

53. Hearings in relation to complaints-(1) Notice of the time and place for a hearing referred to in section 52(2) shall be given to all complainants and the licensee or licensees as directed by the Board.

(2) After giving each complainant and the licensee a reasonable opportunity to be heard in relation to the complaint, the Board may:

- (a) vary or revoke the conditions of the licence; or
- (b) suspend the licence for a period, subject to section 54; or
- (c) cancel the licence, subject to section 55; or
- (d) take no action.

(3) The conditions that may be imposed on a licence include, but are not limited to, conditions relating to:

- (a) noise abatement; or
- (b) prohibition of the sale or supply of liquor between specified hours; or
- (c) prohibition of or restriction on activities that could encourage misuse or abuse of liquor (such as excessive consumption of alcohol).

54. Suspension of licence-(1) The Board may suspend a licence if there are reasonable grounds to be satisfied that:

- (a) the licensee has contravened a provision of this Act; or
- (b) the licensee has contravened a condition of the licence; or
- (c) the licensee has been charged or convicted of an offence under this Act.

(2) Before suspending the licence under subsection (1) the Board must convene a hearing at which the licensee must be given a reasonable opportunity to be heard.

(3) Following a hearing under subsection (2), the Board may:

- (a) suspend the licence for a specified period; or
- (b) issue reprimand to the licensee; or
- (c) impose a fine not exceeding 5 penalty units; or

(d) dismiss the matter.

(4) If it considers it appropriate to do so, the Board may by written notice given to the licensee extend the period of suspension for a further specified period but before taking such action, it must give the licensee a reasonable opportunity to be heard.

(5) For the purpose of subsection (3)(a), a period of suspension of a licence may be specified by reference to the happening of a specified event.

55. Cancellation of licence-(1) The Board may cancel a licence if it is in the public interest to do so.

(2) Without limiting subsection (1), in determining whether it is in the public interest to cancel a licence, the Board, must consider whether:

- (a) the licensee has contravened a provision of this Act;
or
- (b) the licensee has contravened a condition of the licence; or
- (c) the licensee has been convicted of an offence under this Act; or
- (d) the circumstances of that contravention are such that the licence should be cancelled.

(3) In addition to the matters set out in subsection (2), the Board may consider:

- (a) whether the licensee is a fit and proper person to hold a licence; and
- (b) whether the licensed premises are fit and proper premises for the purposes of the licence; and
- (c) the nature of any complaints made to the Board in relation to the licensee; and
- (d) whether the licence has previously been suspended under this Act.

(4) Before cancelling the licence under subsection (1), the Board must convene a hearing at which the licensee must be given a reasonable opportunity to be heard.

PART VIII **OFFENCES**

56. Breach of licence conditions-(1) A licensee who, without reasonable excuse, breaches a condition of the licence or a condition attached to an approval to transfer a licence,

commits an offence and is liable to imprisonment for a term not exceeding six (6) months or to a fine not exceeding 50 penalty units, or both.

(2) For the removal of doubt, no person shall be prosecuted under this section for breach of a condition that is imposed by subsidiary legislation or by the Board.

57. Possession or consumption of liquor in licensed premises by a person under 21 years-(1) Subject to subsections (3) and (4), a licensee commits an offence and is liable to imprisonment for a term not exceeding six (6) months or to a fine not exceeding 50 penalty units, or both, if a person under 21 years of age:

- (a) comes or is allowed to come into possession of liquor on the licensed premises of the licensee's licence; or
- (b) consumes liquor on the licensed premises of the licensee's licence; or
- (c) is permitted entry into the licensed premises of the licensee's licence where signs prohibiting such entry is displayed.

(2) It is a defence to a prosecution under subsection (1) if the defendant proves that when the liquor was sold, the person in possession or consuming the liquor had shown some lawful form of proof of age to the person selling or supplying the liquor indicating that person in possession or consuming the liquor is of or over the age of 21 years.

(3) Subsections (1)(a) and (1)(c) do not apply to a person aged from 18 to less than 21 years who enters or remains in a licensed premises, if that person is:

- (a) an employee of the licensee; or
- (b) a trainee undergoing hospitality training endorsed or sponsored by an education institution duly recognised by the Board; or
- (c) granted permission by the Board.

(4) Subsection (1) does not apply to a licensee of a food and beverage licence provided that the person under the age of 21 years is under the supervision of an attending parent.

58. Exclusion of person from licensed premises-(1) A licensee or its employees may use reasonable force to exclude or remove a person from the licensed premises if:

- (a) the person is drunk, violent, quarrelsome or disorderly; or

- (b) the person is using profane or foul language; or
 - (c) the person does not comply with reasonable requirements relating to dress standards or standards of behaviour of the premises; or
 - (d) the presence or continued presence of the person on the licensed premises would render the licensee liable to a penalty under this or any other Act.
- (2) A person who does not comply with the lawful actions taken by a licensee under subsection (1) commits an offence and is liable to imprisonment for a term not exceeding three (3) months or to a fine not exceeding 25 penalty units, or both.

59. People on licensed premises for unlawful purposes-

- (1) A licensee who permits a person to remain on the licensed premises and the licensee reasonably believes that the person is there for an unlawful purpose, commits an offence and is liable to imprisonment for a term not exceeding six (6) months or to a fine not exceeding 50 penalty units, or both.
- (2) A licensee who permits the licensed premises to be used for the sale of any goods or articles that the licensee suspects or knows of being stolen or illegal commits an offence and is liable to imprisonment for a term not exceeding six (6) months or to a fine not exceeding 50 penalty units, or both.
- (3) A licensee who permits a person to remain on the licensed premises if the person is drunk, violent, quarrelsome, disorderly or is using profane or foul language, commits an offence and is liable to imprisonment for a term not exceeding three (3) months or to a fine not exceeding 25 penalty units, or both.

60. Sale of undesirable liquor products-(1) For the purpose of this section "undesirable liquor product" includes:

- (a) any adulterated liquor;
- (b) any liquor product containing any substance that when sold is an offence under the -
 - (i) Food and Drugs Act 1967; or
 - (ii) Poisons Act 1968; or
 - (iii) Excise Tax (Domestic Administration) Act 1984; or
 - (iv) any other law;
- (c) any liquor sold in a container bearing or has attached to it any false or misleading statement, word, brand, label or mark purporting to indicate the

nature, quality, strength, purity, composition, weight, origin, age or effects of the liquor contained in the container or of any ingredient or such liquor.

(2) The Minister may, by notice, declare a specified liquor product or class of liquor products to be an undesirable liquor product.

(3) A licensee who sells or permits to be sold on the licensed premises an undesirable liquor product commits an offence and is liable to imprisonment for a term not exceeding three (3) months or to a fine not exceeding 25 penalty units, or both.

61. Failure to obtain Board approval to transfer licence - A licensee who transfers a licence under this Act without the approval of the Board commits an offence and is liable to imprisonment for a term not exceeding three (3) months or to a fine not exceeding 25 penalty units, or both.

62. Cleanliness and maintenance etc of licensed premises-(1) A licensee who does not keep the licensed premises in a clean condition or maintain the premises and all equipment, appliances, fittings and furniture in the premises in good condition commits an offence and is liable to a fine not exceeding 10 penalty units.

(2) A licensee who alters the physical structure of the licensed premises and does not apply for the required licence pertaining to the structure of the changed premises, commits an offence and is liable to a fine not exceeding 10 penalty units.

(3) The holder of a licence who relocates without a licence for the relocated premises and sells liquor at such premises commits an offence and is liable to a fine not exceeding 10 penalty units.

63. Licensee liable for act of employee - Where, in contravention of this Act, a servant, agent or employee of the licensee or the manager of licensed premises, or a person acting, or purporting to act, on behalf of the licensee or the manager of licensed premises, sells or supplies liquor on the premises to which the licence relates, the licensee or manager of the licensed premises is guilty of an offence and liable to the punishment prescribed for the contravention.

64. General penalty - Any person who is in breach of a provision of this Act for which no specific penalty is provided commits an offence and is liable to imprisonment of not more than three (3) months or a fine not exceeding 25 penalty units, or both.

PART IX **MISCELLANEOUS**

65. Forfeiture of alcohol - On the conviction of any person for an offence against this Act, the Court may in addition to any other penalty imposed or order made, declare that any liquor seized under this Act and in respect of which the person is convicted, be forfeited to the Government to be sold, destroyed or otherwise disposed of as the Minister deems fit.

66. Protection of Board members and others - The chairperson, secretary, Board members, liquor inspectors or any other employees of the Ministry acting on behalf of the Board or otherwise under this Act is not personally liable for any act done or omitted in good faith in the exercise or performance of the functions, powers or duties of the Board or in the exercise or performance of any functions, powers or duties under this Act.

67. Regulations - The Head of State, acting on the advice of Cabinet, may make regulations prescribing the following:

- (a) the sale of liquor by Government;
- (b) matters required or permitted by this Act to be prescribed;
- (c) offences not exceeding 25 penalty units;
- (d) matters necessary or convenient to be prescribed for the carrying out or giving effect to this Act.

68. Repeal-(1) Subject to subsection (2), the Liquor Act 1971 is repealed.

(2) An offence under the previous Act that took place prior to the date this Act commences may be prosecuted under the previous Act notwithstanding the repeal of the previous Act by subsection (1) and any provision of the previous Act that are relevant for such prosecutions are not to be deemed repealed for the purposes of those prosecutions.

69. Previous Liquor Control Board - Notwithstanding section 7 and the repeal of the previous Act, the four (4) members of the Liquor Control Board at the commencement date of this Act who were chosen by the Minister from the general public under the previous Act shall be deemed to have been appointed under section 7(1)(h) of this Act.

70. Savings-(1) Every licence or permit in force under the previous Act at the commencement date shall, to a capable extent, continue and have effect under the corresponding provisions of this Act until such time as the licence or permit expires or is cancelled under the provisions of this Act.

(2) All decisions or resolutions taken by the Board under the previous Act shall be deemed to be valid and continue to have effect until otherwise determined under this Act.

**The Liquor Act 2011 is administered
by the Ministry for Revenue.**

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