



Tuvalu

ALCOHOLIC DRINK ACT

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Tuvalu

ALCOHOLIC DRINK ACT

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Tuvalu

ALCOHOLIC DRINK ACT

AN ACT RELATING TO ALCOHOLIC DRINKS¹

Commencement [1 January 1985]

PART I - PRELIMINARY

1 Short title

This Act may be cited as the Alcoholic Drink Act.

2 Interpretation

In this Act —

“**alcoholic drink**” means —

- (a) spirits, wine, beer or sour toddy; or
- (b) any other liquid containing alcohol that is used, intended for use or fit for use as a drink,

of a strength exceeding 2° proof;

“**annual meeting**” means the meeting of the Licensing Committee referred to in section 7(1);

“**bar**” means a counter over which alcoholic drinks are served, and includes any store-room or storage facilities attached to it or used in connexion with it;

“**beer**” means —

- (a) ale, stout, porter, cider, perry, spruce beer, black beer or any other kind of beer; and

(b) any liquid made or sold as beer, or as a substitute for beer within the meaning of paragraph (a),

of a strength exceeding 2° proof;

“**the Chairman**” means the Chairman of the Licensing Committee;

“**the Committee**” means the Licensing Committee;

“**the curtilage**”, in relation to any licensed premises, means any building or part of a building of which the licensed premises, as defined in the licence, form part of any land on which the licensed premises are situated, and which is used with or in connexion with those premises;

“**grant**”, in appropriate cases, includes renewal;

“**licence**” means a licence granted under Part III or V as set out in Section 12, but does not include a provisional licence under Section 59;

“**licensed premises**” means any premises or place in respect of which a licence is in force (including any premises or place in respect of which a provisional licence under Section 59 is in force);

“**licensee**” means the holder of a licence;

“**licensing authority**” means —

- (a) in relation to a licence other than an occasional licence or a sour toddy producer’s licence - the Licensing Committee; and
- (b) in relation to an occasional licence - the Chairman; and
- (c) in relation to a sour toddy producer’s licence the Kaupule in whose area of authority the business in respect of which the licence, is, or is to be, granted is, or is to be, carried on;

“**the Licensing Committee**” means the Alcoholic Drink (Licensing) Committee established by Section 5;

“**magistrate**” includes an island magistrate;

“**prohibited person**” means a person in respect of whom a prohibition order is in force;

“**prohibition order**” means an order made under Section 82, and includes an order under Section 84(4) extending the period of such an order;

“**qualified person**” means a natural person who —

- (a) is a fit and proper person —
 - (i) to hold a licence of the relevant class; or
 - (ii) to be the manager of the licensed premises concerned; and
- (b) is not a person to whom Section 17(1) applies, and
- (c) is not disqualified under Section 92;

“**sour toddy**” means any alcoholic drink produced by the fermentation of the sap from the incised spathe of the coconut palm, of a strength exceeding 2° proof.

3 Exemptions

- (1) Notwithstanding any provision of this Act —
 - (a) subject to Subsection (2), the holder of a licence, or a member of the household of a licensee, may at any time supply (except by way of sale) any alcoholic drink to be drunk on the licensed premises, or within the curtilage of the licensed premises, by private friends bona fide entertained by him; and
 - (b) subject to Subsection (2), persons referred to in paragraph (a) may drink any alcoholic drink supplied in accordance with that paragraph; and
 - (c) subject to Subsection (2), the holder of a licence, or a member of the household of a licensee, may be in possession of or drink any alcoholic drink on the licensed premises or within the curtilage of the licensed premises; and
 - (d) a minister of religion may give wine to any person (including a prohibited person) in conformity with any recognized religious rite; and
 - (e) a person (including a prohibited person) may drink wine given in accordance with paragraph (d); and
 - (f) subject to any other law, alcoholic drink, or a medicine containing alcohol, may be sold or supplied to any person (including a prohibited person) in accordance with a written prescription by a medical practitioner or medical officer; and
 - (g) a person (including a prohibited person) may drink, in accordance with the prescription, any alcoholic drink, or medicine containing alcohol, sold or supplied to him in accordance with paragraph (f).
- (2) Subsection (1)(a), (b) and (c) does not apply to —
 - (a) the supply of any alcoholic drink to a prohibited person; or
 - (b) the drinking of any alcoholic drink by a prohibited person,and the provisions of Section 25 and 31 also apply.
- (3) A licence is not required to allow an auctioneer to possess, sell or supply, any alcoholic drink in the course of his business as an auctioneer —
 - (a) on behalf of —
 - (i) the Government; or
 - (ii) with the consent of the Chairman, a person authorized by law to be in possession of the alcoholic drink concerned; or

- (b) under an order of a court.
- (4) The regulations made under Section 127 may provide for further exemptions from or relaxations of any provision of this Act.

4 Managers

- (1) Where in this Act a function is conferred on the holder of a licence in relation to the management of the licensed premises, then, unless the context requires otherwise —
 - (a) that function is equally conferred on the manager and any other person for the time being in charge of the licensed premises or a part of the licensed premises; and
 - (b) a reference to the holder of a licence shall be read as including, in respect of the licensed premises or the part of the licensed premises for which he is responsible, the manager and the person in charge.
- (2) It is a defence to a charge, by virtue of Subsection (1), against a manager or person in charge if he proves that he took all reasonable action, within the limits of the authority vested in him and the resources made available, to him, to perform the function in relation to which the charge is made.
- (3) If the manager of any licensed premises is changed, the holder of the licence shall immediately notify the licensing authority and surrender the licence for the insertion of the name of the new manager.
- (4) If the holder of a licence fails to comply with Subsection (3) he is guilty of an offence, and is liable to a fine of \$100 and \$10 for every day for which the failure continues.

PART II - ADMINISTRATION

5 Alcoholic Drink (Licensing) Committee

- (1) There shall be an Alcoholic Drink (Licensing) Committee for Tuvalu.
- (2) The Licensing Committee shall consist of —
 - (a) a Chairman; and
 - (b) the Commissioner of Police; and
 - (c) the Senior Medical Officer; and
 - (d) such number of other members as is determined by the Minister.
- (3) The Chairman and the members referred to in Subsection (2)(d) shall be appointed by the Minister, by notice.

- (4) A member of the Licensing Committee (other than an ex officio member) holds office until —
 - (a) his death; or
 - (b) subject to Subsection (5), he submits his resignation, in writing, to the Minister; or
 - (c) his appointment is revoked under Subsection (6).
- (5) A resignation under Subsection (4)(b) takes effect on the day after the day on which it is received by the Minister, or on such other day as is agreed by the member and the Minister.
- (6) The Minister may, by notice, at any time revoke the appointment of a member of the Licensing Committee, with or without cause.

6 Functions of Committee

- (1) Subject to Subsection (2), the Licensing Committee —
 - (a) shall consider and determine all applications —
 - (i) for the grant, renewal or transfer of a licence; and
 - (ii) for the removal of a licence; and
 - (b) may, in accordance with Section 17 —
 - (i) cancel or suspend a licence; or
 - (ii) vary the conditions of a licence; or
 - (iii) substitute conditions in a licence; or
 - (iv) add new conditions to a licence.
- (2) Subsection (1) does not apply to or in relation to —
 - (a) an occasional licence; or
 - (b) a sour toddy producer's licence.
- (3) The Licensing Committee has such other functions as are prescribed for or under this Act.

7 Meetings of Committee

- (1) The Licensing Committee shall hold an annual meeting in November of each year.
- (2) The Licensing Committee shall meet at such other time, and at such places, as —
 - (a) subject to paragraphs (b) and (c) – the Chairman; or
 - (b) subject to paragraph (c) – the Committee; or
 - (c) the Minister,

decides.

- (3) The Chairman shall give at least one month's notice of the time, day and place appointed for the annual meeting of the Licensing Committee —
 - (a) over Radio Tuvalu; or
 - (b) in the Tuvalu Echoes or in any other publication circulating in Tuvalu; and
 - (c) by such other means (if any) as he thinks desirable to bring the meeting to the notice of interested persons.
- (4) The Chairman shall also give at least five days' written notice of the time, day and place appointed for any meeting —
 - (a) to the Commissioner of Police in his capacity as such; and
 - (b) to each person who to his knowledge is interested in the subject-matters of the meeting.

8 Procedure at meetings

- (1) The Chairman shall preside at any meeting of the Licensing Committee at which he is present, and in his absence a member appointed by the members present shall preside.
- (2) The quorum for a meeting of the Licensing Committee is not less than one-half of the number of members (including ex officio members).
- (3) All questions before a meeting of the Licensing Committee shall be determined in accordance with the votes of the majority of the members present and voting, and in the event of an equality of votes on a matter the Chairman has a casting, as well as a deliberative, vote.
- (4) The Licensing Committee shall cause minutes of its meetings to be kept, and shall, as soon as practicable after each meeting, forward a copy to the Secretary to Government.
- (5) Subject to this Act (and in particular to Part IV), the procedures of the Licensing Committee are as determined by it.

9 Delegation to Committee

- (1) With the approval of the Minister, the Licensing Committee may, in writing, delegate to the Chairman all or any of its functions under this Act.
- (2) A delegation under Subsection (1) may relate to —
 - (a) the whole of Tuvalu; or
 - (b) the part of Tuvalu specified in the delegation,and to —

- (c) all licences, permits and applications; or
 - (d) a particular licence, permit or application; or
 - (e) a class of licences, permits or applications,
- and may be made subject to conditions or restrictions.
- (3) A delegation under this section is revocable, in writing, at will, and no such delegation prevents the performance of a function by the Licensing Committee.

10 Appeals

- (1) A person aggrieved by a decision of a licensing authority may appeal to the Minister, whose decision is final.
- (2) In this section —
- “**decision**” includes a policy formulated under Section 114(4);
- “**licensing authority**” includes the Chairman acting under a delegation under Section 9.

11 Policy directions by Minister

The Minister may, by notice, give to licensing authorities policy directions as to the administration of this Act.

PART III - LICENCES, ETC.

DIVISION 1 - GENERAL

12 Classes of licences

- (1) Subject to Subsection (4), there are the following classes of licences: —
- (a) off-licences (more particularly dealt with in Division 2);
 - (b) hotel-keepers’ licences (more particularly dealt with in Division 3);
 - (c) publicans’ licences (more particularly dealt with in Division 4);
 - (d) club licences (more particularly dealt with in Division 5);
 - (e) restaurant licences (more particularly dealt with in Division 6);
 - (f) ships’ licences (more particularly dealt with in Division 7);
 - (g) aircraft licences (more particularly dealt with in Division 8);
 - (h) occasional licences (more particularly dealt with in Division 9);
 - (i) sour toddy producers’ licences (more particularly dealt with in Part V);

- (2) Subject to Subsection (3), a licence (other than a sour toddy producer's licence) may authorize the sale of alcoholic drinks generally or the sale of beer and sour toddy only.
- (3) The only licences that authorize the sale of sour toddy are —
 - (a) hotel-keepers' licences; and
 - (b) publicans' licences'; and
 - (c) sour toddy producers' licences.
- (4) Notwithstanding Subsection (1), for the purposes of this Act —
 - (a) a licence to sell and supply alcoholic drinks generally is a licence of a different class from a similar licence to sell and supply beer and sour toddy only; and
 - (b) a hotel-keeper's licence that is restricted under Section 27 is a licence of a different class from a hotel-keeper's licence that is not so restricted; and
 - (c) a publican's licence that is restricted under Section 33 is a licence of a different class from a publican's licence that is not so restricted.

13 Period of licences

- (1) Subject to Subsections (2) and (3), a licence other than an occasional licence remains in force, unless earlier cancelled or suspended under Section 18 or 109, or surrendered under Section 19, for the period of 12 months commencing on 1 January in the year after the year in which it is granted.
- (2) Subject to Subsection (3), if a licence other than an occasional licence is granted before the annual meeting of the Licensing Committee during the year in which it is granted, it remains in force, unless earlier cancelled, suspended or surrendered, until 31 December in the year in which it is granted.
- (3) With the consent of the applicant, a licence other than an occasional licence may be expressed to terminate on a date before the date on which it would regularly terminate under Subsection (1) or (2).
- (4) An occasional licence remains in force as provided for by Section 56.
- (5) A sour toddy producer's licence remains in force as provided for by Section 77.

14 Licence fees

- (1) Subject to Subsection (2), the fees payable in respect of the matters listed in the Schedule are as specified in the Schedule.
- (2) Where in accordance with Section 13(2) or (3) a licence is granted for a period of less than 12 months, the fee payable for the licence is 1/50th of the

fee otherwise payable, for each week or part of a week of the period of the licence.

- (3) The Minister may, by order, amend the Schedule.
- (4) A local government council may by resolution amend the fee for a sour toddy producer's licence specified in Part II of the Schedule but such an amended fee shall only have effect in respect of sour toddy producer's licences issued for the area of authority of that local government council:

Provided that such an amended fee shall only come into effect when the Minister by notice approves such resolution and that notice is published at the office of the council.

15 Form of licences

A licence shall be in a form approved by the Minister for the purpose.

16 Conditions of licence

A licence is subject to —

- (a) the provisions of this Act; and
- (b) any special conditions determined by the Licensing Committee and set out in the licence.

17 Disqualification of licensees, managers etc.

- (1) The following persons are disqualified from holding a licence or managing licensed premises: —
 - (a) a person who is under the age of 21 years, except in the case of a sour toddy producer's licence where the equivalent age is 18 years;
 - (b) a prohibited person;
 - (c) a person who —
 - (i) is in prison; or
 - (ii) is certified to be insane or otherwise adjudged to be of unsound mind under any law of Tuvalu; or
 - (iii) has been adjudged or otherwise declared bankrupt under the law of any part of the Commonwealth and has not been discharged; or
 - (iv) is unable for any reason to properly supervise the licensed premises;
 - (d) a person who is disqualified under Section 92.
- (2) Only a natural person may hold a licence.

18 Cancellation, suspension, etc., of licences

- (1) The licensing authority may —
 - (a) cancel a licence; or
 - (b) suspend a licence for such period as it thinks proper; or
 - (c) vary the conditions of a licence; or
 - (d) substitute conditions in a licence; or
 - (e) add new conditions to a licence,if it is satisfied that —
 - (f) the licensee has ceased to be a qualified person; or
 - (g) the licensee has been convicted of an offence against this Act; or
 - (h) a condition of the licence has been contravened or not complied with;
or
 - (i) the licensee has permitted, or has not taken all reasonable steps to prevent or to stop, the commission of an offence against this Act on or in relation to the licensed premises; or
 - (j) any circumstances exist that would justify the refusal of the licence, or its being granted on different conditions, if it were then being applied for by the licensee.
- (2) The provisions of this section are in addition to the provisions of Section 109.

19 Surrender of licences

- (1) The holder of a licence may, by written notice addressed to the Chairman, surrender the licence.
- (2) The surrender of a licence takes effect —
 - (a) on the date of its receipt by the Chairman; or
 - (b) on a date specified in the notice for the purpose,whichever is the later date.

DIVISION 2 - OFF-LICENCES

20 Effect of off-licence

Subject to the conditions of the licence, an off-licence authorizes the sale of alcoholic drinks in unopened containers by the holder of the licence and his agents and servants —

- (a) by wholesale or by retail, as specified in the licence; and
- (b) between the hours of 8 a.m. and 6 p.m. on any day other than a Sunday or a public holiday.

21 Sale, etc., of alcoholic drinks in open containers

The holder of an off-licence who stores, sells, exposes or offers for sale or delivers any alcoholic drink otherwise than in an unopened container is guilty of an offence, and is liable to a fine of \$200.

22 Drinking on or near licensed premises

- (1) Subject to Subsection (3), a person who drinks any alcoholic drink on or in the vicinity of any premises in respect of which an off-licence is in force is guilty of an offence, and is liable to a fine of \$200.
- (2) The holder of an off-licence who permits any alcoholic drink to be drunk on or in the vicinity of the licensed premises is guilty of an offence, and is liable to a fine of \$200.
- (3) Subsections (1) and (2) do not apply to the drinking of alcoholic drinks in a private dwelling-house, or within the curtilage of a private dwelling-house, if the dwelling-house is not, and is not part of, the licensed premises.

DIVISION 3 - HOTEL-KEEPERS' LICENCES**23 Requirements of hotel-keeper's licences**

- (1) A hotel-keeper's licence may be granted only in respect of premises that —
 - (a) contain, in addition to any accommodation for the licensee, members of the staff, and their respective households, at least —
 - (i) four bedrooms constantly ready and suitably furnished, and fit for public accommodation; and
 - (ii) at least one room, suitably furnished, in which drinks may be served or drunk at tables; and
 - (iii) at least one dining room at which breakfast, lunch and dinner are made reasonably available to bona fide lodgers and their guests; and
 - (b) are furnished and equipped in such a way, and supplied with such facilities, as are reasonably required for the accommodation of the public (especially the travelling public).
- (2) In a particular licence the Licensing Committee may specify in more detail the application of Subsection (1), and may include additional requirements.
- (3) It is a condition of a hotel-keeper's licence that, throughout the period of the licence —
 - (a) the requirements of, and requirements made under, Subsections (1) and (2) will be complied with; and

- (b) the accommodation and facilities required by or under those subsections will (subject to the needs of current lodgers) be made reasonably available to would-be lodgers (especially travellers); and
- (c) the accommodation and facilities will be maintained in a suitable and clean condition.

24 Effect of hotel-keeper's licence

Subject to the conditions of the licence, a hotel-keeper's licence authorizes the sale and supply of alcoholic drinks by the holder of the licence and his agents and servants —

- (a) between 11 a.m. and 3 p.m. and between 6.30 p.m. and 10 p.m., and during any extended hours under Section 58 - to any person of or over the age of 18 years, for drinking on the licensed premises; and
- (b) between 11 a.m. and 3 p.m., and between 6.30 p.m. and 10 p.m. - in unopened containers, for drinking off the premises; and
- (c) at any other time to bona fide lodgers and their guests for drinking otherwise than at a bar.

25 Closing of bars

Except for necessary purposes of maintenance, cleaning-up, restocking, stock-taking and similar activities concerned with the management of the premises, any bar on the premises in respect of which a hotel-keeper's licence is in force shall be kept securely locked at all times other than those referred to in Section 24(a), but this section does not prevent the unlocking of a bar in order to supply bona fide lodgers and their guests.

26 Closing of facilities

- (1) Subject to Subsection (2), the holder of a hotel-keeper's licence may, after giving not less than 48 hours notice —
 - (a) to members of the public - over Radio Tuvalu and by signs prominently displayed both outside and inside the licensed premises; and
 - (b) to the Chairman - in writing,prohibit or restrict access to the licensed premises, for the purpose of any official, private or special function or entertainment, a religious service or a meeting of any kind.
- (2) In any case of urgency, the Chairman may —
 - (a) reduce the period of notice; or
 - (b) waive the requirement of notice over Radio Tuvalu; or

- (c) exempt the licensee from the need to give notice to the public.
- (3) Nothing in this section applies to the accommodation of bona fide lodgers, or prevents their having reasonable access to the facilities normally available to them.

27 Restricted hotel-keeper's licences

- (1) If an applicant for a hotel-keeper's licence so requests, the Licensing Committee may exclude from the licence the right to supply alcoholic drinks to persons other than bona fide lodgers and their guests.
- (2) The power of the Licensing Committee under Section 18(1) —
 - (a) to vary the conditions of a licence; or
 - (b) to substitute conditions in a licence; or
 - (c) to add new conditions to a licence,extends to making the exclusion referred to in Subsection (1).

28 Exhibition of name of licensee

- (1) The holder of a hotel-keeper's licence shall keep painted on the front of his licensed premises, in letters at least two inches high, his full name, followed —
 - (a) in the case of a licence to sell alcoholic drinks generally - by the words "licensed to retail alcoholic drinks generally"; and
 - (b) in the case of a licence to sell beer and sour toddy only - by the words "licensed to retail beer and sour toddy only."
- (2) If the licence is restricted under Section 27(1) or (2), the words prescribed by Subsection (1)(a) or (b) of this section shall be followed by the words "to bona fide lodgers and their guests only."

DIVISION 4 - PUBLICANS' LICENCES

29 Effect of publicans' licences

Subject to the conditions of the licence, a publican's licence authorizes the sale and supply of alcoholic drinks by the holder of the licence and his agents and servants —

- (a) between 11 a.m. and 3 p.m., and between 6.30 p.m. and 10 p.m. and during any extended hours under Section 58 - to any person of or over the age of 18 years, for drinking on the licensed premises; and
- (b) between 11 a.m. and 3 p.m. and between 6.30 p.m. and 10 p.m. - in unopened containers, for drinking off the premises.

30 Young persons on licenced premises

- (1) Subject to this Section, the holder of a publican's licence who allows a person under the age of 18 years to be in, or within the curtilage of, his licensed premises during the hours referred to in Section 29(a) is guilty of an offence, and is liable to a fine of \$200 and to imprisonment for six months.
- (2) Subject to this section, any person who causes or procures, or attempts to cause or procure, any person under the age of 18 years to be in, or within the curtilage of, any premises the subject of a publican's licence during the hours referred to in Section 29(a) is guilty of an offence, and is liable to a fine of \$200 and to imprisonment for six months.
- (3) Where it is shown that a person under the age of 18 years was in, or within the curtilage of, any premises the subject of a publican's licence during the hours referred to in Section 29(a), the licensee shall be deemed to have allowed the person to be there unless he proves that —
 - (a) he used due diligence to prevent the person from so being in, or within the curtilage of, the licensed premises; or
 - (b) the person had apparently attained the age of 18 years and he had no reason to doubt that he had.
- (4) The holder of a publican's licence may request any person entering his licensed premises, or who is in, or within the curtilage of, his licensed premises, to produce evidence of his age, and if the person does not satisfy the licensee that he has attained the age of 18 years the licensee or a police officer may expel the person from the premises.
- (5) No offence under this section is committed if the person under the age of 18 years —
 - (a) is the child of the licensee; or
 - (b) resides in, or is lawfully staying in, the premises; or
 - (c) is in the company of a parent or other ancestor, or of a guardian; or
 - (d) in the case of a married person, is in the company of his or her spouse.
- (6) In this section —

“**licensed premises**” means any premises —

 - (a) in respect of which a publican's licence is in force; and
 - (b) which are used exclusively or mainly for the sale of liquor.

31 Closing of bars

Except for necessary purposes of maintenance, cleaning-up, re-stocking, stock-taking and similar activities connected with the management of the premises, any bar on the premises in respect of which a publican's licence is in force shall be kept securely locked at all times other than those referred to in Section 29(a).

32 Closing of facilities

- (1) Subject to Subsection (2), the holder of a publican's licence may, after giving not less than 48 hours' notice —
 - (a) to members of the public - over Radio Tuvalu and by signs prominently displayed both inside and outside the licensed premises; and
 - (b) to the Chairman, in writing,
prohibit or restrict access to the licensed premises, for the purpose of any official, private or special function or entertainment, a religious service or a meeting of any kind.
- (2) In any case of urgency, the Chairman may —
 - (a) reduce the period of notice; or
 - (b) waive the requirement of notice over Radio Tuvalu; or
 - (c) exempt the licensee from the need to give notice to the public.

33 Restricted publicans' licences

The power of the Licensing Committee under Section 18(1) —

- (a) to vary the conditions of a licence; or
- (b) to substitute conditions in a licence; or
- (c) to add new conditions to a licence,

extends to the exclusion from the licence of the right to supply alcoholic drinks for drinking off the premises.

34 Exhibition of name of licensee

- (1) The holder of a publican's licence shall keep painted on the front of his licensed premises, in letters at least two inches high, his full name, followed —
 - (a) in the case of a licence to sell alcoholic drinks generally - by the words "licensed to retail alcoholic drinks generally"; and
 - (b) in the case of a licence to sell beer and sour toddy only - by the words "licensed to retail beer and sour toddy only."
- (2) If the licence is restricted under Section 33, the words prescribed by Subsection (1)(a) or (b) of this section shall be followed by the words "for drinking on the premises only."

DIVISION 5 - CLUB LICENCES

35 Requirements of club licences

- (1) A club licence may be granted only in respect of a non-profit club which is established for recreational and social purposes, and which occupies premises —
 - (a) that are habitually used for the purposes of the club; and
 - (b) in which it is desired to supply alcoholic drinks for drinking by members and their bona fide guests.
- (2) The club must satisfy the Licensing Committee that it has a constitution that —
 - (a) provides adequately for the identification at all times of the membership of the club; and
 - (b) provides for the management and control of the club premises; and
 - (c) contain such other provisions as the Committee thinks necessary for the purposes of this Act.
- (3) A certified copy of the constitution of the club shall be filed with the Licensing Committee at the time of the application for a licence, and shall be kept up-to-date.

36 Effect of club licence

Subject to the conditions of the licence, a club licence authorizes the sale and supply of alcoholic drinks by or on behalf of the club —

- (a) during such days and hours as are specified in or under the licence; or
- (b) if no days or hours are so specified, during such days and hours (being hours that are reasonably related to the recreational and social purposes of the club) as are approved —
 - (i) on Funafuti, by the Chairman; and
 - (ii) elsewhere, by the Island Executive Officer,

to —

- (c) members and bona fide guests of members, for drinking on the premises of the club; and
- (d) members, for drinking off the premises.

37 Cancellation, etc., of club licences

In addition to the grounds prescribed in Section 18 and 109 as grounds on which —

- (a) a licence may be cancelled or suspended; or

- (b) the conditions of a licence may be varied; or
- (c) conditions may be substituted in a licence; or
- (d) new conditions may be added to a licence,

the powers conferred by Section 18(1) may be exercised in relation to a club licence if the Licensing Committee is satisfied that —

- (e) the club has ceased to exist, or is no longer a club to which, under Section 35, a club licence would be granted; or
- (f) the club is not conducted in good faith as a club, or is kept or habitually used for an unlawful purpose; or
- (g) there is frequent drunkenness on the club premises; or
- (h) non-members are habitually admitted to the Club premises merely for the purpose of obtaining alcoholic drink.

38 Illegal sales in clubs

If any alcoholic drink is supplied or sold in or from a licensed club otherwise than in accordance with Section 36(c) or (d) —

- (a) the person supplying or selling the alcoholic drink; and
- (b) the person obtaining the alcoholic drink; and
- (c) any officer or member of the club permitting the supply or sale,

is each guilty of an offence, and is each liable to a fine of \$200.

39 Alcoholic drink in unlicensed clubs

If any alcoholic drink is stored, supplied or sold on or from the premises of an unlicensed club, every officer and member of the club is each guilty of an offence, and is each liable to a fine of \$200, unless he proves that —

- (a) he did not know that alcoholic drink was so stored, supplied or sold; or
- (b) he did what he could reasonably be expected to do to prevent or stop the storage, supply or sale.

DIVISION 6 - RESTAURANT LICENCES

40 Interpretation of Division 6

In this Division —

“**restaurant**” means any premises primarily used for the sale, in the ordinary course of business, of meals to the public for consumption on the premises.

41 Purpose of Division 6

The purpose of this Division is to allow persons having a meal in a restaurant to add to their enjoyment of it by also having alcoholic drinks.

42 Requirements of restaurant licences

A restaurant licence may be granted only in respect of the premises on which the business of a restaurant is conducted.

43 Effect of restaurant licence

- (1) The holder of a restaurant licence may, during the hours from 11 a.m. to 3 p.m. and from 6.30 p.m. to 10 p.m., and during any extended hours under Section 58, sell and supply alcoholic drinks, for consumption in the restaurant, as part of a meal of a kind normally sold as a meal in the course of the business of the restaurant.
- (2) For the purposes of Section (1), drinks taken before or after eating, but in association with the meal, are taken as part of the meal.

44 Cancellation, etc., of licences

In addition to the grounds prescribed in Sections 18 and 109 as grounds on which —

- (a) a licence may be cancelled or suspended; or
- (b) the conditions of a licence may be varied; or
- (c) conditions may be substituted in a licence; or
- (d) new conditions may be added to a licence,

the powers conferred by Section 18(1) may be exercised in relation to a restaurant licence if the Licensing Committee is satisfied that the licensed premises are not conducted in good faith as a restaurant and not a drinking place.

45 Offences in respect of restaurant licences

A person who —

- (a) on any premises in respect of which a restaurant licence is in force drinks any alcoholic drink that has not been supplied or sold to him in accordance with this Division; or
- (b) removes from any such premises any alcoholic drink so supplied or sold,

is guilty of an offence, and is liable to a fine of \$200.

DIVISION 7 - SHIPS' LICENCES

46 Grant of ship's licence

- (1) A ship's licence may be granted in respect of a vessel registered in, or based in, Tuvalu by which passengers are regularly carried from a place in Tuvalu to another place in Tuvalu, or from a place in Tuvalu to a place outside Tuvalu.
- (2) A ship's licence shall be issued in the name of the vessel.

47 Effect of ships' licence

A ship's licence authorizes the master and any member of the crew of the vessel to sell and supply alcoholic drinks —

- (a) during the voyage, to —
 - (i) passengers on board the vessel; and
 - (ii) members of the crew of the vessel; and
- (b) at a port, to guests of a passenger or of a member of the crew, during such hours as are fixed by the master.

48 Exempt vessels

A licence is not required to authorize the sale or supply of alcoholic drinks to persons on board a vessel other than a vessel referred to in Section 46(1).

DIVISION 8 - AIRCRAFT LICENCES

49 Grant of aircraft licence

- (1) An aircraft licence may be granted in respect of an aircraft registered in, or based in, Tuvalu by which passengers are regularly carried from a place in Tuvalu to another place in Tuvalu, or from a place in Tuvalu to a place outside Tuvalu.
- (2) An aircraft licence shall be issued in the name of the aircraft.
- (3) For the purposes of Subsection (2) —
“**name**” includes registration number.

50 Effect of aircraft licence

An aircraft licence authorizes the captain and any member of the crew of the aircraft to sell and supply alcoholic drinks to passengers on board the aircraft.

51 Exempt aircraft

A licence is not required to authorize the sale or supply of alcoholic drinks to persons on board an aircraft other than an aircraft referred to in Section 49(1).

52 Offences in respect of aircraft licences

- (1) The bar or liquor locker on an aircraft shall be locked or securely closed, and kept locked or securely closed, from the time when the aircraft touches down until the doors are locked for departure, unless all alcoholic drinks in the bar or locker have been removed from the aircraft.
- (2) If a bar or locker is not locked or securely closed as required by Subsection (1), the captain and the person responsible for locking or closing it is each guilty of an offence, and is each liable to a fine of \$200.

DIVISION 9 - OCCASIONAL LICENCES**53 Grant of occasional licence**

An occasional licence may be granted by the Chairman to the organizer of any kind of public entertainment, if the Chairman is satisfied that —

- (a) the occasion in respect of which the licence is required is a special one; and
- (b) the place where the entertainment is to be held is suitable both for the kind of entertainment and for the supply and drinking of alcoholic drinks,

and, subject to Section 54(2), on payment of the prescribed fee.

54 Application for occasional licence

- (1) Application for an occasional licence shall be made to the Chairman at least 48 hours before the day on which the licence is required.
- (2) If the Chairman is satisfied that the entertainment is organized for charitable purposes, he may exempt the applicant from payment of the prescribed fee.

55 Conditions etc., of occasional licence

- (1) In an occasional licence the Chairman may impose such conditions on the sale and supply of alcoholic drinks as he thinks desirable in the interest of order and to prevent excessive consumption of alcoholic drink.
- (2) Subject to any policy directions given under Section 11, the Licensing Committee may determine general policies as to occasional licences and

general conditions to be imposed on all or any kind of occasional licences, and the Chairman shall comply with any such policy.

56 Effect of occasional licence

Subject to the conditions of the licence, an occasional licence authorizes the sale and supply of alcoholic drinks by the licensee and his agents and servants —

- (a) at the place, or a part of the place, where the entertainment is to be held, as specified in the licence; and
- (b) during the hours (not exceeding in all 24 hours), and on the day or days, specified in the licence; and
- (c) for drinking only in such part of the place where the entertainment is to be held as is specified in the licence.

57 Offence in respect of occasional licences

A person who —

- (a) at an entertainment in respect of which an occasional licence is granted, and during the hours specified under Section 56(b), drinks any alcoholic drink that has not been sold or supplied to him under the licence; or
- (b) removes from the area specified under Section 56(c) any alcoholic drink so supplied,

is guilty of an offence, and is liable to a fine of \$200.

DIVISION 10 - EXTENDED HOURS

58 Permit for extended hours

- (1) This section applies to —
 - (a) hotel-keepers' licences; and
 - (b) publicans' licences; and
 - (c) club licences; and
 - (d) restaurant licences,
- (2) On application by the holder of a licence to which this section applies, and on payment of the prescribed fee, the Chairman may grant a permit for the licensee to sell and supply alcoholic drinks, for drinking on the licensed premises, during such hours, in addition to those specified in or under the preceding provisions of this Act in respect of the licence, as are specified in the permit.

- (3) A permit is subject to such conditions and restrictions (if any) as the Chairman imposes and specifies in the permit.
- (4) For all purposes of this Act, any conditions and restrictions specified under Subsection (2) shall, in relation to the extended hours provided for by the permit, be deemed to be conditions of the licence.

DIVISION 11 - PROVISIONAL LICENCES, TRANSFERS OF LICENCES AND TEMPORARY AUTHORITIES TO CARRY ON BUSINESS

59 Provisional licences

- (1) This section applies to —
 - (a) hotel-keepers' licences; and
 - (b) publicans' licences; and
 - (c) club licences; and
 - (d) restaurant licences.
- (2) If a person wishes to obtain a licence to which this section applies in respect of premises —
 - (a) that are not yet erected or completed; or
 - (b) that require alterations or additions to make them suitable,he may apply to the Licensing Committee for a provisional licence.
- (3) The applicant shall supply with the application —
 - (a) a properly drawn plan, showing the precise locality of the premises or proposed premises and the number and size of rooms; and
 - (b) details of the proposed accommodation, facilities and equipment (including bar and storage arrangements, toilet facilities, and security arrangements; and
 - (c) in particular, in the case of an application for a hotel-keeper's licence, details of the matters referred to in Section 23(1); and
 - (d) generally, all information necessary to enable the Licensing Committee to form a correct estimate of the appropriateness of the premises or proposed premises.
- (4) Subject to Part IV, the Licensing Committee may grant a conditional licence of the class applied for.
- (5) A conditional licence remains in force for a period of 12 months or such longer period as the Licensing Committee allows.
- (6) Subject to this section, to Part IV and to the conditions of the licence, a conditional licence gives a right to the grant of a licence of the relevant class, on application made in accordance with Part IV within the period referred to in Subsection (5).

60 Transfers of licences

- (1) This section does not apply to —
 - (a) an occasional licence; or
 - (b) a sour toddy producers' licence.
- (2) If the holder of a licence to which this section applies —
 - (a) dies; or
 - (b) ceases to be a qualified person,

the Licensing Committee may, on application by a person having an interest in the business in respect of which the licence was granted, transfer the licence to a qualified person.
- (3) In other cases the Licensing Committee may, on application by —
 - (a) the holder of the licence; or
 - (b) a person having an interest in the business in respect of which the licence was granted,

transfer a licence to which this section applies, but only in the cases and to the persons set out in the succeeding provisions of this section.
- (4) Subject to Subsection (7), where the holder of the licence is the sole owner of the business, the licence may be transferred —
 - (a) to any qualified person who has become by law entitled to, or to the control of, the business, or to a qualified person nominated by him; or
 - (b) in any other case, to a qualified person nominated by the licensee.
- (5) Where the holder of the licence is one of the owners of the business, the licence may be transferred to any qualified person nominated by the owners.
- (6) Where the holder of the licence is a nominee of the owner or owners of the business, the licence may be transferred to any qualified person nominated by the owner or owners.
- (7) If —
 - (a) the holder of the licence has become disqualified under Section 17 or 92 from being the holder of a licence; or
 - (b) the licence is otherwise subject to cancellation under Section 18 or 109,

the Licensing Committee shall not transfer the licence before a decision is made on the matter.
- (8) Pending a decision, and until —
 - (a) the end of the period of three months after the date of the application, or of such longer period as the Licensing Committee allows; or
 - (b) the termination of the licence,

whichever first occurs, any qualified person actually managing the business shall be deemed to be the licensee, and during any period when there is no such person the licence shall be deemed to be suspended.

- (9) If there is a dispute as to the right to the ownership or control of the business, the Licensing Committee shall not decide on an application for the transfer of the licence pending an order of a court of competent jurisdiction.
- (10) Except as provided in this section, a licence is not transferable.

61 Temporary authorities

- (1) This section does not apply to —
 - (a) a ship's licence; or
 - (b) an aircraft licence; or
 - (c) an occasional licence; or
 - (d) a sour toddy producer's licence.
- (2) If any licensed premises, or a part of any licensed premises —
 - (a) are or is, by fire, tempest or other calamity, made unfit for the carrying on of business under the licence; or
 - (b) are or is in need of repair, renovation or reconstruction,
or if the licensee wishes to alter, extend or reconstruct his licensed premises, in whole or in part, the Licensing Committee may, on application by the licensee, authorize him by written order to carry on his business or part of his business in some fit neighbouring premises, approved by the Committee for the purpose —
 - (c) until the expiration of the current period of the licence; or
 - (d) for such shorter period as the Committee determines.
- (3) Any neighbouring premises referred to in an order under Subsection (2), as specified in the order, shall be deemed, during the currency of the order, to be licensed premises for the purposes of this Act and of the licence in place of the licensed premises, or the part of the licensed premises, specified in the order.

PART IV - LICENSING PROCEDURES

DIVISION 1 - PRELIMINARY

62 Application of Part IV

- (1) This Part does not apply in relation to —

- (a) an occasional licence; or
 - (b) subject to Section 80, a sour toddy producer's licence.
- (2) This Part, with any necessary modifications, applies to an application for a provisional licence in the same way as it applies to a licence of the same class as the provisional licence.

63 Interpretation of Part IV

In this Part —

“**application**” means an application for the grant of a licence to which this Part applies, or an application for the transfer, under Section 60, of such a licence.

DIVISION 2 - APPLICATIONS

64 Notice of application

- (1) No application shall be considered by the Licensing Committee unless it reaches the Committee at least 14 days before the start of the meeting at which the application is to be considered.
- (2) At least 10 days before the start of a meeting the Chairman shall publish —
- (a) over Radio Tuvalu; and
 - (b) by such other means (if any) as he thinks desirable to bring the matter to the attention of interested person,
- a list containing, in respect of each application to be considered at the meeting —
- (c) the name of the applicant; and
 - (d) the type of licence concerned; and
 - (e) the nature of the application; and
 - (f) the address of the premises concerned.

65 Applications generally

- (1) Subject to Subsection (2), an application for the grant of a licence to which this Part applies, other than an application for the grant of a club licence, shall —
- (a) be signed by the applicant; and
 - (b) set out the name, address and occupation of the applicant; and
 - (c) state the capacity in which the applicant acts, that is to say whether he is —

- (i) the sole owner of the business; or
 - (ii) one of the owners of the business; or
 - (iii) a nominee of the owner or owners of the business - stating whether he is an agent, officer or employee of the owner or owners, or as the case may be; and
- (d) state whether authority is required for the sale of alcoholic drinks generally, or for the sale of beer and sour toddy only; and
- (e) subject to Subsection (2), except in the case of an application relating to a ship's licence or an aircraft licence —
- (i) set out the name, address and occupation of the manager or proposed manager; and
 - (ii) contain a full and accurate description of the premises and proposed premises, or the part of the premises or proposed premises, the subject of the application; and
 - (iii) be accompanied by a plan of the premises or proposed premises; and
- (f) in the case of an application relating to a ship's licence or an aircraft licence —
- (i) identify the ship or aircraft; and
 - (ii) set out the names and addresses of the owners, charterers, operators and agents of the ship or aircraft; and
 - (iii) set out the routes intended to be sailed or flown, and the intended schedule,

and otherwise comply with the requirements of this Act.

- (2) In the case of an application for the renewal of a licence other than a ship's licence or an aircraft licence, Subsection (1)(e) need not be complied with unless —
- (a) the Licensing Committee so directs; or
 - (b) structural alterations were made to the premises during the currency of the existing licence.

66 Applications in respect of club licences

An application for the grant of a club licence shall —

- (a) be signed by the secretary or other proper officer of the club; and
- (b) include particulars of —
 - (i) the objects of the club; and
 - (ii) the address of the club premises; and

- (iii) the names and addresses of the officers and of the members of the committee of management (if any) of the club; and
 - (c) be accompanied by a copy of the constitution or rules of the club; and
 - (d) state whether authority is required for the sale of alcoholic drinks generally, or for the sale of beer and sour toddy only,
- and otherwise comply, with the requirements of this Act.

67 Applications in respect of separate parts of the same premises

- (1) An application for the grant of a licence to which this Part applies, other than a ship's licence or an aircraft licence, may apply for a single licence in respect of separate parts of the same premises.
- (2) Upon such an application the Licensing Committee, taking into account —
 - (a) the nature of the premises; and
 - (b) the relative location of the separate parts; and
 - (c) the business intended to be done at the separate parts,may —
 - (d) restrict the application to a specific part of the premises; or
 - (e) grant one licence for two or more separate parts of the premises; or
 - (f) grant such number of licences as it thinks appropriate in respect of separate parts.

68 Additional information

The Licensing Committee may at any stage request an applicant for a licence to which this Part applies to supply it with more information concerning the subject matter of the application, and may defer consideration of the application until the information is supplied to its satisfaction.

DIVISION 3 - CONSIDERATION OF APPLICATIONS

69 Public hearings

Applications shall be dealt with by the Licensing Committee in public hearings.

70 Objectors

An objection to the approval of an application may be made, orally or in writing, to the Licensing Committee by —

- (a) the holder of, or an applicant for, any other licence (other than an occasional licence) on the island on which the premises or proposed premises the subject of the application are, or are to be, situated; or
- (b) three or more residents of that island; or
- (c) a police officer; or
- (d) a sanitary inspector; or
- (e) a person authorized in writing by the Minister; or
- (f) the Failautusis ote Kaupule; or
- (g) the Kaupule.

71 Objections

- (1) Subject to Subsection (2), an objection may be made on any of the following grounds: —
- (a) that the applicant or the proposed manager is disqualified under Section 17 or 92;
 - (b) that the applicant or the proposed manager is a person of drunken or dissolute habits or is of bad repute;
 - (c) that a licence held by the applicant or by the proposed manager has, within the period of 12 months before the date of the application, been cancelled or suspended;
 - (d) that the applicant or the proposed manager has, within the period referred to in paragraph (c), been guilty of an offence against this Act, the Food Safety Act² or the Public Health Act;
 - (e) that, in the case of an application for the renewal of a licence —
 - (i) frequent breaches of the law or of the peace have occurred on the licensed premises; or
 - (ii) drunk or disorderly persons have frequently been seen on or near the licensed premises;
 - (f) that the premises the subject of the application are unhygienic or are otherwise unsuitable for the sale or drinking of alcoholic drinks;
 - (g) that the reasonable requirements of the neighbourhood do not justify the approval of the application;
 - (h) that the premises the subject of the application are so near a place of public worship, hospital or school as to be likely to disturb persons in it or going to or coming from it;
 - (i) that the quiet and good order of the neighbourhood in which the premises the subject of the application are situated will be disturbed if the application is approved,
- or on any other ground that appears to the Licensing Committee relevant.

- (2) On an application for the confirmation of a provisional licence under Section 59 objection may be taken only on a ground specified in Subsection (1)(a), (b), (c) and (d).
- (3) As soon as practicable after an objection in writing has been made (unless it is made at the hearing), the Licensing Committee shall give notice of the objection to —
 - (a) the applicant; and
 - (b) the senior police officer (other than the Commissioner of Police) on the island concerned.

72 Effect of objection

- (1) The mere fact that an objection is correctly taken does not mean that the Licensing Committee must refuse the application, but in all cases the Committee, taking any such objection into account, shall exercise an independent judgement as to the application.
- (2) The mere fact that an objection has not been taken does not prevent the Licensing Committee from inquiring into any matter relevant to the application.
- (3) If an objection is taken, on a ground specified in Section 71(l)(a), (b), (c) or (d) or otherwise, against the manager or the proposed manager of the premises the subject of an application, the Licensing Committee shall, before refusing the application on that ground alone, give to the applicant a reasonable opportunity to remove the ground of the objection by substituting in his application the name of some other qualified person as manager.

73 Consideration of applications

- (1) Applicants and objectors have the right to appear before the Licensing Committee either in person or by a representative.
- (2) The senior police officer (other than the Commissioner of Police) on the island on which the meeting of the Committee is held, or a person authorized by him for the purpose, shall attend each meeting of the Licensing Committee.
- (3) The Licensing Committee shall reject out of hand any objection which on the face of it does not comply with Section 71(1) and the objection is a nullity, but this does not prevent the objector from taking any further objection that does comply with that subsection.
- (4) The Licensing Committee shall not consider any application in respect of a hotel-keeper's licence or a publican's licence unless —
 - (a) the applicant appears either in person or by a representative; or

- (b) no objection has been made to the application, and the applicant is exempted from appearing by the Chairman.
- (5) The Licensing Committee shall not consider any application to which an objection has been made unless it is satisfied that both the applicant and the objector have had reasonable notice of the time, day and place of the meeting at which the application is to be considered.
- (6) The Licensing Committee shall not refuse any application unless it is satisfied that the applicant has had reasonable notice of the time, day and place of the meeting at which the application is to be considered.
- (7) Where an objection is made of which the applicant has not had reasonable notice, the applicant is entitled to a reasonable adjournment to consider it.
- (8) The Licensing Committee may adjourn a meeting, or any particular business before a meeting, to another time or place, and the resumed meeting shall be deemed to be a continuation of the original meeting.

DIVISION 4 - GRANT OF LICENCES

74 Duty of Licensing Committee

- (1) Before granting a licence to which this Part applies the Licensing Committee shall satisfy itself that —
 - (a) the premises to which the application relates are fit and proper for the purpose of the type of licence involved; and
 - (b) the parts of the premises on which alcoholic drinks are to be stored, sold, supplied or drunk are sufficiently defined in the application or in a plan attached to the application; and
 - (c) the applicant and the proposed manager (if any) are qualified persons; and
 - (d) the provisions of this Act have been complied with in regard to the application; and
 - (e) the licence applied for may properly be granted.
- (2) In Subsection (1) —
“premises” includes a vessel or aircraft.

75 Method of grant

When an application is approved by the Licensing Committee (with or without modification), the Chairman shall, on proof of payment to the Government of the prescribed fee, grant the licence accordingly.

PART V - SOUR TODDY PRODUCERS' LICENCES

76 Grant, etc., of sour toddy producer's licence

- (1) A sour toddy producer's licence may be granted, in respect of premises specified in the licence, by the Kaupule within whose area of authority the premises are situated.
- (2) A sour toddy producer's licence may be granted only to a person who makes sour toddy.
- (3) The fee payable in respect of a sour toddy producer's licence shall be paid to the island council.

77 Period of licence

Unless sooner terminated, a sour toddy producer's licence remains in force for a period of 12 months.

78 Effect of licence

Subject to the conditions of the licence, a sour toddy producer's licence authorizes the sale and supply of sour toddy by the holder of the licence —

- (a) in any quantity; and
- (b) by wholesale or by retail; and
- (c) for drinking off the licensed premises only.

79 Cancellation, etc., of licences

- (1) The Kaupule may —
 - (a) cancel or suspend a sour toddy producer's licence; or
 - (b) vary the conditions of such a licence; or
 - (c) substitute conditions in such a licence; or
 - (d) add new conditions to such a licence,in accordance with Section 18 or 109.
- (2) Subject to Subsection (3), if the holder of a sour toddy producer's licence or any other person is convicted of an offence against the Food Safety Act³ in respect of sour toddy that has at any time been stored, exposed for sale, sold, supplied or delivered on or from any premises in respect of which a sour toddy producer's licence was in force, the Kaupule may cancel the licence.

- (3) If the offence was committed by some person other than the licensee the licence shall not be cancelled if the licensee proves that he was wholly unconnected with the offence.

80 Procedures

- (1) Subject to this Act, the procedures to be followed in connection with a sour toddy producer's licence are as prescribed by the Kaupule in whose area of authority the premises licensed or proposed to be licensed are situated, by bye-law made in accordance with the Falekaupule Act.
- (2) In the absence of bye-laws made for the purpose of Subsection (1), the provisions of Section 7 and of Part IV, with the necessary modifications, apply.

81 Offences in connection with sour toddy producers' licences

- (1) Subject to Subsection (3), a person who drinks sour toddy on or near any premises in respect of which a sour toddy producer's licence is in force is guilty of an offence, and is liable to a fine of \$200.
- (2) Subject to Subsection (3), the holder of a sour toddy producer's licence who permits sour toddy to be drunk in contravention of Subsection (1) is guilty of an offence, and is liable to a fine of \$200.
- (3) Subsections (1) and (2) do not apply to the drinking of sour toddy in a private dwelling-house, or within the curtilage of a private dwelling-house, if the dwelling-house is not, and is not part of, the licensed premises.

PART VI - PROHIBITION ORDERS

82 Prohibition Orders

- (1) A magistrate may —
 - (a) upon application made to him by any person (including the person in relation to whom it is proposed that the order under this subsection be made); and
 - (b) upon being satisfied that the person in relation to whom the application is made is of confirmed intemperate habits as far as alcoholic drink is concerned,

make an order prohibiting the person in relation to whom the application is made from drinking or having in his possession any alcoholic drink for a period, not exceeding 12 months, specified in the order.

- (2) Where —

- (a) a person is convicted by a court of an offence which involved drunkenness (whether or not drunkenness is an element of the offence); and
 - (b) upon the conviction the court is satisfied that the person has, during the period of 12 months before the date of the offence, been convicted at least twice of such an offence,
- the court may make an order of a kind referred to in Subsection (1).

83 Notice of prohibition order

When a prohibition order is made, the magistrate or court making the order shall cause notice of the order to be given to —

- (a) the Chairman; and
- (b) the Commissioner of Police, in his capacity as such; and
- (c) every police officer in charge of a police station on —
 - (i) the island on which the order is made; and
 - (ii) the island where the prohibited person normally lives or works; and
- (d) every licensee (other than the holder of a sour toddy producer's licence) on the islands referred to in paragraph (c); and
- (e) the Island Executive Officer on each such island.

84 Drinking, etc, by prohibited person

- (1) A prohibited person who —
 - (a) drinks any alcoholic drink; or
 - (b) has any alcoholic drink in his possession,is guilty of an offence, and is liable to a fine of \$200, and the offender may be arrested without warrant.
- (2) A prohibited person who is drunk —
 - (a) on any licensed premises; or
 - (b) in a public place,is guilty of an offence, and is liable to imprisonment for 12 months, and the offender may be arrested without warrant.
- (3) Section 26 of the Penal Code⁴ does not apply in relation to an offence against Subsection (2) unless, for reasons special to the prohibited person, the court that convicts him thinks that a fine would be adequate, in which case he is liable to a fine of \$500.

- (4) If a prohibited person is convicted of an offence against Subsection (1) or (2), the court that convicts him may, by order, extend the period of the prohibition order to the end of the period of 12 months —
- (a) if he is sentenced to imprisonment - from the date of his release from imprisonment; or
 - (b) in any other case - from the date of the conviction, or for a shorter period.

85 Supplying alcoholic drink to prohibited person

A person who knowingly —

- (a) gives, sells or supplies any alcoholic drink to a prohibited person; or
- (b) procures or assists in procuring any alcoholic drink for a prohibited person,

or who gives, sells or supplies any alcoholic drink to any person knowing, or having reasonable grounds to suspect, that it is intended for or will be given to a prohibited person, is guilty of an offence, and is liable to a fine of \$500.

86 Prohibited persons on certain premises

- (1) This section does not apply in relation to —
- (a) a hotel-keeper's licence, if the prohibited person concerned is a bona fide lodger in the licensed premises; or
 - (b) a restaurant licence, if the prohibited person concerned is having a meal on the premises; or
 - (c) a ship's licence; or
 - (d) an aircraft licence.
- (2) Subject to any exception contained in the prohibition order, the holder of a licence to which this section applies —
- (a) whose premises are exclusively or mainly used for the sale or supply of alcoholic drink; and
 - (b) who permits a prohibited person to be on the premises,
- is guilty of an offence, and is liable to a fine of \$100.
- (3) In Subsection (2) —
- “**premises**” includes a part of the premises.

87 Forfeiture of alcoholic drink in possession of prohibited person

Any alcoholic drink found in the possession or under the control of a prohibited person is forfeited to the Crown, and may be seized by a police officer.

88 Evidence of knowledge of prohibition

Where a person who is —

- (a) a person who has been given notice under Section 83(d) that a prohibition order has been made in respect of a person; or
- (b) the agent, officer, servant or employee of a person to whom paragraph (a) applies,

is charged with an offence against this Part in relation to the prohibited person, the person charged shall be deemed, until the contrary is proved, to have known that the person concerned was a prohibited person.

89 Appeals against prohibition orders etc.

- (1) For the purposes of appeal and review, a prohibition order shall be deemed to be a sentence.
- (2) Notwithstanding any appeal or review, a prohibition order continues in force until the completion of the appeal or review.

PART VII - DISTILLATION

90 Prohibition of distillation of spirits

A person who, except as authorized by or under any other Act —

- (a) imports or sets up —
 - (i) a still; or
 - (ii) any machinery, implement or utensil used for the distillation of spirits; or
- (b) has in his possession or custody, or under his control —
 - (i) a still, still head or worm; or
 - (ii) any machinery, implement or utensil used or intended for use in connection with the distillation of spirits; or
- (c) makes any spirits, or assists or is otherwise concerned in making spirits; or
- (d) supplies materials for making or working a still; or

- (e) conveys or conceals, or assists in conveying or concealing, any spirits distilled or made in Tuvalu,

is guilty of an offence, and is liable to a fine of \$500 and to imprisonment for nine months.

91 Search for illicit spirits, etc.

- (1) A police officer may at any time, with or without assistance, and using such force as is reasonably necessary —
 - (a) enter upon any premises used, or reasonably suspected of being used, as a distillery; and
 - (b) break open doors and containers on the premises; and
 - (c) seize any spirits found on the premises, and materials and implements used or intended to be used, or reasonably suspected of being used or intended to be used, in the process of distillation.
- (2) Any spirits, materials and implements —
 - (a) seized under Subsection (1)(c); and
 - (b) in respect of which an offence against Subsection (1) has been committed,are forfeited to the Crown.

PART VIII - OFFENCES GENERALLY

92 Selling alcoholic drink without licence

- (1) A person who sells or exposes for sale any alcoholic drink without holding the appropriate licence is guilty of an offence, and is liable —
 - (a) for a first offence - to a fine of \$500; and
 - (b) for a second or subsequent offence - to a fine of \$1,000 and to imprisonment for twelve months.
- (2) Where a person is convicted more than once of an offence against Subsection (1), the Court that convicts him on each occasion after the first shall disqualify him from holding a licence, and from managing any licensed premises, for a period not exceeding two years.
- (3) A second or subsequent disqualification under subsection (2) may be made cumulative on or concurrent with any previous such disqualification.
- (4) For the purposes of appeal and review, a disqualification under this section shall be deemed to be part of the sentence.

93 Sale etc outside permitted hours

- (1) A person who, otherwise than during the hours within which the sale or supply is authorized by or under this Act, sells or supplies on or from any licensed premises any alcoholic drink is guilty of an offence, and is liable to a fine of \$200 and to imprisonment for six months.
- (2) Subject to Section 25 and 31, a person who, otherwise than during the hours within which the bar or the licensed premises, or the part of the licensed premises, is permitted under this Act to remain open, keeps open —
 - (a) a bar; or
 - (b) licensed premises, or a part of licensed premises, used exclusively or mainly for the sale or supply of alcoholic drinks,is guilty of an offence, and is liable to a fine of \$200 and to imprisonment for six months.
- (3) Subject to Section 113, a person who, otherwise than during the hours within which the sale or supply of the alcoholic drink for consumption by him on the premises is authorized by or under this Act, drinks any alcoholic drink on any licensed premises is guilty of an offence, and is liable to a fine of \$200 and to imprisonment for six months.

94 Unauthorised alcoholic drink on licensed premises

- (1) Subject to Subsection (2), if any alcoholic drink of a kind not authorized by the licence to be sold is on, or within the curtilage of, any licensed premises, the licensee and any person knowingly drinking or in possession of the drink is each guilty of an offence, and is each liable to a fine of \$200.
- (2) Subsection (1) does not apply in relation to any alcoholic drink that is the personal property of —
 - (a) the licensee; or
 - (b) any of the following persons who are resident on the premises: —
 - (i) a member of the staff; or
 - (ii) a member of the household of the licensee or of a member of the staff; or
 - (c) a bona fide lodger.

95 Non-compliance with licence

The holder of a licence who contravenes or fails to comply with a condition of his licence for which no other penalty is provided by this Act is guilty of an offence, and is liable to a fine of \$200.

96 Sale outside licensed premises

The holder of a licence who sells, supplies or offers or exposes for sale any alcoholic drink otherwise than at a place where the licence authorizes him to do so is guilty of an offence, and is liable to a fine of \$200.

97 Failure to produce licence

If on demand by a police officer made on the licensed premises the holder of a licence or of a permit under Section 58 fails, without reasonable excuse, to produce his licence or permit, he is guilty of an offence, and is liable to a fine of \$200.

98 Drunkenness, etc., on licensed premises

- (1) The holder of a licence who —
 - (a) permits drunkenness or violent, quarrelsome, indecent or grossly disorderly or offensive conduct to take place on the licensed premises; or
 - (b) sells or supplies alcoholic drink to or for a drunken person, or a person guilty of conduct referred to in paragraph (a) on the licensed premises,is guilty of an offence, and is liable to a fine of \$200.
- (2) A person who —
 - (a) on any licensed premises, procures or attempts to procure any alcoholic drink for a drunken person, or a person guilty of conduct referred to in Subsection (1)(a) on those premises; or
 - (b) helps a drunken person, or a person guilty of such conduct, in obtaining or drinking any alcoholic drink in any licensed premises,is guilty of an offence, and is liable to a fine of \$200.
- (3) It is a defence to a charge of an offence against Subsection (1)(a) that the person charged and his agents and servants took all reasonable steps to prevent the drunkenness or other conduct the subject of the charge.

99 Persons under age

- (1) The holder of a licence who knowingly —
 - (a) sells or supplies any alcoholic drink to a person under the age of 18 years; or
 - (b) permits any alcoholic drink to be sold or supplied to such a person,is guilty of an offence, and is liable to a fine of \$200.

- (2) Any agent or servant of the holder of a licence who knowingly sells or supplies any alcoholic drink to a person under the age of 18 years is guilty of an offence, and is liable to a fine of \$200.
- (3) A person under the age of 18 years who —
 - (a) obtain or attempts to obtain any alcoholic drink on or from any licensed premises; or
 - (b) has in his possession, or drinks, any alcoholic drink on any licensed premises or in a public place,is guilty of an offence, and is liable to a fine of \$200.
- (4) The holder of a licence who employs a person under the age of 18 years to sell or serve any alcoholic drink is guilty of an offence, and is liable to a fine of \$100.

100 Police officers on duty

The holder of a licence who —

- (a) knowingly permits a police officer to be on the licensed premises, except for the purposes of his duty, during any time appointed for the officer to be on duty; or
- (b) supplies any alcoholic drink or other refreshment, whether by way of gift or sale or otherwise, to a police officer on duty, except by authority of a superior officer of the officer or as authorized by law,

is guilty of an offence, and is liable to a fine of \$200.

101 Drinking within curtilage of licensed premises

- (1) The holder of a licence who knowingly permits any person other than —
 - (a) a bona fide lodger; or
 - (b) the bona fide guest of such a lodger,to drink any alcoholic drink in any place within the curtilage of the licensed premises as defined in the licence is guilty of an offence, and is liable to a fine of \$200.
- (2) A person other than a person referred to in Subsection (1)(a) or (b) found drinking any alcoholic drink in any place to which Subsection (1) applies who, when requested by the holder of the licence or his agent or servant, or by a police officer, to leave the place, fails to do so —
 - (a) is guilty of an offence, and is liable to a fine of \$200; and
 - (b) may be expelled from the place with any reasonable degree of force required for the purpose.

102 Outside sellers

If a person other than the holder of the licence or his agent or servant sells any alcoholic drink on any licensed premises, the person and the licensee is each guilty of an offence, and is each liable to a fine of \$200.

103 Alcoholic drink in shops, etc

- (1) A person who owns or manages a shop and who, unless authorized by a licence to supply alcoholic drink in or from the premises, stores or keeps any alcoholic drink, or permits any alcoholic drink to be stored or kept —
 - (a) in the shop; or
 - (b) to an amount in excess of the reasonable requirements of his household in a dwelling-house communicating by a passageway or otherwise with the shop,

is guilty of an offence, and is liable to a fine of \$200.

- (2) A police officer may at any reasonable time enter any shop or any dwelling-house referred to in Subsection (1)(b), and search for and seize any alcoholic drink in respect of which he has reasonable cause to suspect that an offence against Subsection (1) has been committed.
- (3) Any alcoholic drink in respect of which an offence against Subsection (1) has been committed is forfeited to the Crown.
- (4) In this section —

“shop” means any vehicle, vessel, building or place —

 - (a) in or on which goods are exposed, offered, stored or kept for sale; or
 - (b) in, on or from which goods are sold.

104 Unauthorised signs

A person other than the holder of the appropriate license on whose premises any sign, writing, painting or other mark is exhibited stating, implying or giving reasonable cause for believing that —

- (a) the premises are licensed for the sale or supply of any kind of alcoholic drink; or
- (b) any kind of alcoholic drink is sold or supplied on or from the premises,

is guilty of an offence, and is liable to a penalty of \$200.

105 Possession of weapons etc

- (1) A person who —

- (a) while on any licensed premises other than premises in respect of which an off-licence is in force; or
 - (b) while under the influence of alcohol,
is, without lawful and reasonable excuse, (the burden of proof of which is on him) in possession of any dangerous or offensive weapon or instrument is guilty of an offence, and is liable to a fine of \$200.
- (2) Subsection (1) applies whether or not the weapon or instrument is intended for use to cause injury to any person.
 - (3) A person who is found in possession of a weapon or instrument contrary to Subsection (1) may be arrested without warrant.
 - (4) Nothing in this section applies to the use or possession for a lawful purpose of darts or other instruments used in games of a kind suitable to be played on licensed premises.

106 Making alcoholic drink

- (1) A person who makes, or assists or is concerned in the making of, any alcoholic drink other than sour toddy, is guilty of an offence, and is liable to a fine of \$500 and to imprisonment for nine months.
- (2) Subsection (1) does not apply to —
 - (a) the mixing of sour toddy with water; or
 - (b) the mixing of an alcoholic drink other than sour toddy with another such alcoholic drink or with any other liquid intended for use as a drink.

107 Mixtures of sour toddy

A person who drinks or has in his possession a mixture of sour toddy and a substance other than water is guilty of an offence, and is liable to a fine of \$200.

108 Liability of licensees for acts of agents and servants

Where an offence for which the holder of a licence is liable under this Act has, in fact, been committed by his agent or servant —

- (a) the licensee and the agent or servant; and
- (b) the manager of the licensed premises,

is each guilty of the offence.

109 Cancellation of licence on certain convictions

- (1) Without prejudice to any other provision of this Act, if the holder of a licence is —
- (a) sentenced to imprisonment for a period exceeding six months, and the sentence is not suspended or, if it was suspended, is subsequently enforced; or
 - (b) convicted within a period of 12 months of two or more offences against this Act; or
 - (c) convicted of contravening or failing to comply with any of the special conditions of his licence determined under section 16(b),
- his licence may be cancelled —
- (d) in a case to which paragraph (a) applies - by the licensing authority; and
 - (e) in a case to which paragraph (b) or (c) applies - by the licensing authority, or by the court or the court of last conviction, as the case may be.
- (2) The provisions of this section are in addition to the provisions of Section 18.

110 Advice of conviction

Where —

- (a) the holder of a licence is convicted of an offence against this Act; or
- (b) any other person is convicted of an offence against this Act committed on or in relation to any licensed premises,

the court convicting him shall, within seven days, send to the Chairman a written summary of the facts and of the conviction.

111 Limitation of actions

A prosecution for an offence against this Act shall not be instituted more than six months after the date of the offence.

112 Jurisdiction of island courts

Subject to the limitations on its powers of sentencing imposed by Section 6 of the Island Courts Act an island court has jurisdiction —

- (a) in proceedings for an offence against this Act; and
- (b) to make any order consequential on a conviction of any such offence.

PART IX - MISCELLANEOUS

113 Period of grace after closing time

- (1) This section applies in relation to any licence (other than a ship's licence or an aircraft licence) that authorizes the sale and supply of alcoholic drinks for drinking on the licensed premises.
- (2) Notwithstanding anything in this Act but subject to any order under Section 115 or 116, the holder of a licence to which this section applies may, subject to Subsection (3), leave the licensed premises open for a reasonable period (not exceeding 30 minutes) after closing time in order to allow persons who have lawfully been supplied with alcoholic drinks in open containers for drinking on the premises to finish those drinks.
- (3) Subsection (2) applies only if the licensee ensures that —
 - (a) the licensed premises are supervised by him or by his agent or servant during the period referred to in that subsection; and
 - (b) where required by this Act, any bar on the premises is closed.
- (4) In this section —

“**closing time**”, in relation to any alcoholic drink lawfully supplied to a person, means the time at which the sale to him of that drink would become unlawful.

114 Limitation on number of licences

- (1) Where he considers it in the public interest to do so, the Minister may, by notice, limit —
 - (a) the number of licences, either generally or in relation to a particular class of licence; or
 - (b) the classes of licence,that may be granted —
 - (c) in Tuvalu; or
 - (d) in a part of Tuvalu specified in the notice.
- (2) Subject to Subsection (4), while a notice under Subsection (1)(a) is in force the licensing authority shall not grant a licence if the grant means that the number fixed in the notice would be exceeded in the area to which the notice applies.
- (3) While a notice under Subsection (1)(b) is in force the licensing authority shall not grant a licence of the restricted class in the area to which the notice applies.

- (4) When a notice under Subsection (1)(a) comes into effect the licensing authority may, subject to any policy directions given under Section 10, formulate and publish in such manner as it thinks adequate a policy with regard to priorities in licensing.

115 Ministerial closure orders

Notwithstanding anything in this Act, the Minister may, by order, direct the closure, on any day and during any hours specified in the order, of —

- (a) all licensed premises; or
- (b) any particular licensed premises or class of licensed premises specified in the order,

in —

- (c) the whole of Tuvalu; or
- (d) the part of Tuvalu specified in the order.

116 Closure due to riot, etc.

When a riot or tumult occurs, or is expected or feared, in any place a police officer may order any licensed premises in or near the place to be closed for such period as he orders.

117 Failure to obey closure order

- (1) The holder of a licence who fails to comply with an order under Section 115 or 116 is guilty of an offence, and is liable to a fine of \$200.
- (2) If any licensed premises are not closed in accordance with an order under Section 115 or 116, a police officer may, using any reasonable degree of force required for the purpose —
 - (a) close the premises; and
 - (b) subject to Subsection (3), expel any person found on them.
- (3) Subsection (2)(b) does not apply to —
 - (a) the licensee, the manager or the person in actual charge of the premises; or
 - (b) the agents and servants of the licensee in the course of their duties; or
 - (c) any of the following persons who are resident on the premises: —
 - (i) a member of the staff; or
 - (ii) a member of the household of the licensee or of a member of the staff; or
 - (d) bona fide lodgers.

118 Prohibited areas

- (1) The Minister may, by notice, declare any part of Tuvalu to be a prohibited area for the purposes of this section.⁵
- (2) A person who drinks any alcoholic drink in any public place in part of Tuvalu to which a declaration under subsection (1) applies, other than premises in respect of which a licence is in force authorizing the drinking of the alcoholic drink in the place, is guilty of an offence, and is liable to a fine of \$200.

119 Local government bye-laws concerning drinking in public places

The power to make bye-laws conferred by the Falekaupule Act⁶ extends to the making of bye-laws prohibiting or restricting the drinking of alcoholic drinks in public places other than licensed premises.

120 Right to exclude from licensed premises

- (1) Without prejudice to any other right —
 - (a) to refuse a person admission to any licensed premises; or
 - (b) to expel a person from any licensed premises,the holder of a licence may refuse to admit into, or may expel from, the licensed premises a person —
 - (c) who is drunken, violent, quarrelsome, disorderly or otherwise objectionable; or
 - (d) who is using foul language; or
 - (e) who is suffering from an infectious disease; or
 - (f) whose presence would make the licensee or any other person liable to a penalty under this or any other Act.
- (2) If a person who is liable to be expelled from any licensed premises under Subsection (1) fails to leave the premises when requested to do so by the licensee or his agent or servant, or by a police officer, he is guilty of an offence, and is liable to a fine of \$200.

121 Proof of age

- (1) Where the holder of a license or his agent or servant, or a police officer, is in doubt as to whether any person is a person in respect of whom an offence against this Act may be committed by reason of his age, he may require the person to produce satisfactory evidence of his age.
- (2) If on a requirement under Subsection (1) the person concerned does not produce satisfactory evidence of his age, the holder of the licence and his

agents and servant, and any police officer, may treat the person as if he were under any relevant age.

- (3) Evidence for the purposes of this section may be oral or documentary.

122 Search warrants

- (1) Upon being satisfied, by information on oath, that there is reasonable ground for suspecting that any alcoholic drink is sold or supplied or is exposed or kept for sale, at, in or from a place in respect of which a licence is not in force for the purpose, a magistrate may issue a search warrant to a police officer.
- (2) A warrant under Subsection (1) authorizes the police officer —
- (a) to enter the place specified in the warrant; and
 - (b) to search the place for alcoholic drink; and
 - (c) to seize and remove any alcoholic drink that he has reasonable ground for supposing to be in the place for the purpose of unlawful sale or supply, there or elsewhere, and the receptacles containing it,
- using any reasonable degree of force necessary for the purpose.

123 Power of entry

For the purpose of preventing or detecting the commission of an offence against this Act, a police officer may at any time enter on any licensed premises.

124 Seizure of alcoholic drink, generally

- (1) Where a police officer believes, or has reasonable grounds to suspect, that an offence against this Act has been, is being or is about to be committed, he may seize and remove —
- (a) any alcoholic drink; and
 - (b) the receptacles containing any alcoholic drink; and
 - (c) any other thing,
- that he believes to be connected with the offence or suspected or expected offence.
- (2) Any thing seized under Subsection (1) shall as soon as practicable be brought before a magistrate to be dealt with according to law, unless it is earlier returned.
- (3) Upon a conviction of the offence, any thing seized under subsection (1) may be forfeited to the Crown by the convicting court.
- (4) Nothing in this section affects the operation of any other provision of this Act or of any other law.

125 Evidence

In any proceedings under or for the purposes of this Act —

- (a) a certificate purporting to be signed by a government chemist or analyst stating the nature and contents of any liquid is prima facie evidence of its nature and contents; and
- (b) where in a charge of an offence against this Act an allegation is made that any liquid is —
 - (i) an alcoholic drink; or
 - (ii) a mixture of sour toddy with any substance other than water, the liquid shall be deemed, until the contrary is proved, to be alcoholic drink or such mixture, as the case may be; and
- (c) evidence of the delivery of any alcoholic drink by or on behalf of any person is prima facie evidence of its sale by or on behalf of that person; and
- (d) evidence that any person other than the licensee, a member of his household or his agent or servant, drank or intended to drink any alcoholic drink on any licensed premises is prima facie evidence that the alcoholic drink was sold to that person by or on behalf of the licensee.

126 Proceedings for price of alcoholic drink sold

The holder of a licence is not entitled to maintain an action for, or to recover, a debt or demand for any alcoholic drink sold or supplied for drinking on the licensed premises unless it was sold or supplied —

- (a) to a bona fide lodger; or
- (b) for drinking with a meal.

127 Regulations

The Minister may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed in the regulations, or that are necessary or convenient to be so prescribed for carrying out or giving effect to this Act.

SCHEDULE**FEES⁷***(Section 14)*

PART I		Liquor Generally	Beer and Sour Toddy
1.	Off-licence —		
	(a) wholesale	210	190
	(b) retail	470	270
2.	Hotel-keeper's licence —		
	(a) general	630	520
	(b) restricted	470	260
3.	Publican's licence —		
	(a) general	590	360
	(b) restricted	420	210
4.	Club licence	380	210
5.	Restaurant licence	210	140
6.	Ships licence	380	210
7.	Aircraft licence	200	130
8.	Occasional licence	40	15
9.	Provisional licence	13	13
10.	Transfer of licence	40	40
11.	Temporary authority(Section 61)	6	6
12.	Permit for extended hours	30	30
PART II			
13.	Sour toddy producer's licence	100	
14.	Renewal of licence	As for the grant of the licence	

ENDNOTES

¹ Act 10 of 1984, GN 58/1984

Amended by GS 1/2005

² Cap. 28.08

³ Cap. 28.08

⁴ Cap. 10.20

⁵ The following Notices have been made –

Areas declared to be a prohibited area by notice under section 118

That part of the Island of Funafuti between the south western part of the airstrip and the existing fuel storage tanks is declared to be a prohibited area for the purpose of the section. (LN 25/1973)

That part of the Island of Nui between Tabontebike and the pig fence is declared to be a prohibited area for the purposes of the Act. (LN 6/1985)

That part of the Island of Vaitupu being the communal land comprising the main village bounded by an area 600 yards both to the North and to the South of that communal land, is declared a prohibited area for the purposes of the Act. (GN 16/1986)

⁶ Cap. 04.08

⁷ Substituted by LN 1/2005