



Tonga

INTOXICATING LIQUOR ACT

Chapter 28.14

2016 Revised Edition



INTOXICATING LIQUOR ACT

Arrangement of Sections

Section

1	Short title	7
2	Interpretation	7
PART I - LICENCES		8
3	Liquor Licensing Authority	8
4	Licence	8
5	Application for licence	9
5A	Issuing of licences	10
5B	Transfer of licence	10
5C	Renewal of licences	11
6	Functions and Powers of the Authority	11
7	Licence may not be granted to a company	12
8	Duplicate licences	12
8A	Suspension or revocation of licence for contravention of this Act	13
WHOLESALE AND BOTTLE LICENCES		13
9	Wholesale licence	13
10	<i>Repealed by Act 44 of 2010</i>	13
11	Retail bottle store	13
12	Liquor to be kept in a secure place	13
13	Stock book to be kept	14
14	Record of sales to be kept	14
15	Failure to keep stock or sales book an offence	14
16	Consumption on wholesale or retail bottle store premises	15
17	Hours of sale by retail or wholesale	15
18	Offence	15
19	<i>Repealed by Act 44 of 2010</i>	15

CLUB LICENCES	15
20 Registration of clubs	15
21 Club licence.....	15
22 <i>Repealed</i>	16
23 <i>Repealed</i>	16
24 Club to keep liquor sale book.....	16
25 <i>Repealed</i>	16
26 Refusing access to books	16
27 <i>Repealed</i>	16
OCCASIONAL LICENCES	16
28 Sale at special events	16
PUBLICAN'S LICENCE	17
29 Bar licence.....	17
30 <i>Repealed</i>	17
31 Permissible time for sale at a bar	17
32 <i>Repealed</i>	18
33 <i>Repealed</i>	18
34 <i>Repealed</i>	18
35 <i>Repealed</i>	18
36 <i>Repealed</i>	18
37 <i>Repealed</i>	18
38 <i>Repealed</i>	18
39 <i>Repealed</i>	18
40 <i>Repealed</i>	18
41 <i>Repealed</i>	18
42 <i>Repealed</i>	18
43 <i>Repealed</i>	18
RESTAURANT LICENCES	18
44 Restaurant licences	18
45 <i>Repealed</i>	19
NIGHT CLUB LICENCES	19
45A Night club licence.....	19
APPLICATIONS	20
46-56 <i>Repealed</i>	20
APPEALS	20
56A Appeal to Cabinet	20
OFFENCES	20
57 Penalty on sale of liquor by unlicensed person	20
58 Penalty for allowing unlicensed person to sell	20
59 Penalty on refusal to receive travellers	20

60	Exclusion of inebriates and others from licensed premises	21
61	Penalty for permitting disorderly persons to continue on licensed premises	21
62	Liquors carried about for sale to be seized and forfeited	21
63	Gaming prohibited on licensed premises	22
64	Minimum of strength of spirituous liquors	22
65	Under-aged persons.....	22
66	Penalty for supplying liquor to intoxicated persons	22
67	Licensed premises not to be occupied as ballroom, concert room, etc.	23
68	Cancellation of any licence.....	23
69	Penalty for non-production of licence.....	23
70	Constable may enter licensed premises in performance of duty	23
71	Reward to persons giving evidence.....	23
72	Obstructing officer acting in discharge of duty	23
73	Procedure for search of unlicensed premises.....	24
74	Penalty for harbouring or bribing police	24
75	Penalty on officer taking bribe.....	24

PART II - LIQUOR PROHIBITION **25**

PROHIBITION ORDERS **25**

94	Prohibition orders.....	25
95	Rescission of order after 3 years	25
96	Final prohibition order	26
97	Magistrate to publish prohibition order	26
98	Penalty for prohibited person found drinking	26
99	Supplying prohibited person.....	26
100	Licensee's servant liable to penalty	26
101	Prohibited person shall not go in licensed premises	26

PART III - GENERAL **27**

102	General penalty	27
103	Licensee responsible for acts of his servants	27
104	Procedure on prosecution	27
105	Limitation	27
106	Certificate of government analyst	27
107	Every liquid to be deemed liquor	28
108	Delivery of liquor <i>prima facie</i> evidence of sale.....	28
109	Burden of proof.....	28
110	Power to make rules	28

FIRST SCHEDULE **29**

LICENCE FEES	29
--------------	-----------

SECOND SCHEDULE	30
THIRD SCHEDULE	31
FOURTH SCHEDULE	32
SIXTH SCHEDULE	33
SEVENTH SCHEDULE	34
ENDNOTES	35



INTOXICATING LIQUOR ACT

AN ACT TO PROVIDE FOR THE CONTROL OF THE SALE AND CONSUMPTION OF INTOXICATING LIQUOR¹

Commencement [1st July, 1951]

1 Short title

This Act may be cited as the Intoxicating Liquor Act.

2 Interpretation

“**Authority**” means the Liquor Licensing Authority appointed under this Act;²

“**bar**” means any room in which liquor is kept and in which, or through any opening in which, liquor is directly served to customers;

“**licence**” means a licence for the sale of intoxicating liquor issued under this Act;

“**licensee**” means a person holding any licence issued under this Act;

“**licensed premises**” means any premises in respect of which a licence issued under this Act is in force;

“**liquor**” means intoxicating liquor;

“**intoxicating liquor**” means any wine, spirits, ale, beer, porter, cider or other spirituous or fermented liquor of an intoxicating nature;

“**proof**” means strength of proof as ascertained by Sikes hydrometer;³

“**prohibition order**” means an order made by a Magistrate and filed as a record in his court cancelling or modifying the terms of any permit to have in possession or to drink any intoxicating liquor issued under the provisions of this Act;

“**prohibited person**” means either a person in respect of which a prohibition order has been made;

“**government analyst**” shall include the Chief Executive Officer for Health and any registered Tongan Medical Practitioner authorized by him to carry out analysis for the purposes of this Act.

PART I - LICENCES

3 Liquor Licensing Authority

- (1) There shall be established under this Act the Liquor Licensing Authority who shall be responsible for the administration of this Act.
- (2) The Minister shall, with the consent of Cabinet, appoint the members of the Authority, and the members shall consist of the following persons —
 - (a) Police Commissioner, who shall be the chairperson;
 - (b) a representative from the Ministry of Labour, Commerce and Industries;
 - (c) a representative from the Ministry of Revenue;
 - (d) a representative from the Ministry of Health; and
 - (e) the secretariat shall be from Tonga Police.⁴

4 Licence⁵

- (1) No person shall sell liquor in the Kingdom unless he has been issued with any of the following licences under this Act –
 - (a) Wholesale Licence;
 - (b) Retail Bottle Store Licence;
 - (c) Club Licence;
 - (d) Special Events Licence;
 - (e) Bar Licence;
 - (f) Restaurant Licence; or
 - (g) Night-Club Licence.
- (2) The fees payable for a licence and related matters are those set out in the First Schedule to this Act, and the Authority may, with the consent of Cabinet, by Notice in the Gazette at any time amend such fees.

- (3) A licence issued under this Act shall be in the form set out in the Second Schedule.
- (4) The fee for a licence issued under this Act shall be paid to the Authority or any other public office designated by the Authority.
- (5) A licence issued under this Act shall be valid for a term not exceeding twelve months, and may be renewed upon application under this Act.

5 Application for licence⁶

- (1) An application for a licence under this Act shall be made in writing to the Authority, in the form set out in the Third Schedule to this Act, together with payment of the prescribed fee.
- (2) In considering any application for a licence, the Authority shall have regard to the:
 - (a) suitability of the applicant;
 - (b) extent to which liquor is already available in the area to which the application applies;
 - (c) days on which and the hours during which the applicant proposes to sell liquor;
 - (d) likely impact that the grant of the licence will have on the health and social well being of the community;
 - (e) compliance with health, sanitary, fire and building standards, including hygiene standards for food and drink preparation, adequate toilet, urinal and wash-hand basin facilities, fire fighting capacity, fire safety measures and structural soundness of the building for its intended use;
 - (f) desirability of limiting the number of licences to limit the impact on the community of alcohol-related harm;
 - (g) views of persons directly affected by the application;
 - (h) steps proposed to be taken by the applicant to ensure that the requirements of this Act in relation to the sale of liquor to prohibited persons are observed;
 - (i) steps proposed to be taken by the applicant to prevent acts of violence and disorder on or in the immediate vicinity of the proposed licensed premises;
 - (j) extent to which practices will be in place at the licensed premises as soon as the licence is granted that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place;
 - (k) the applicant's proposals relating to—
 - (i) the sale and supply of non-alcoholic refreshments and food; and

- (ii) the sale and supply of low-alcohol beverages; and
- (l) the provision of assistance with or information about alternative forms of transport from the licensed premises.
- (3) The Authority may, upon receipt of an application under subsection (1), notify the public of the application and invite submissions to be made within a reasonable period.
- (4) The Authority shall provide the applicant any submission received in relation to an application, and invite the applicant to respond.
- (5) Notwithstanding subsection (4), the Authority may convene a public hearing to hear submissions regarding an application.

5A Issuing of licences⁷

- (1) The Authority may, after considering an application for a licence and any submission received by the Authority in relation to an application:
 - (a) require the applicant to resubmit his application;
 - (b) grant a provisional licence, with conditions and for a limited term;
 - (c) grant a licence with or without conditions; or
 - (d) refuse to grant a licence.
- (2) The conditions the Authority may impose on a licence under subsections (1)(b) or (c) may include, but shall not be limited to the following:
 - (a) the requirements that a licensee needs to implement before being granted a licence under subsection (1)(c);
 - (b) the number of customers or patrons that can be served at a licensed premises;
 - (c) the training staff are required to have;
 - (d) the level of noise that can be made from a licensed premises; and
 - (e) the lighting for licensed premises, including car parks, for safety of customers or patrons and their vehicles.
- (3) A licensee may apply to the Authority to vary any conditions imposed on his licence, and such application shall be considered as if a new application.
- (4) Any licensee who breaches a condition imposed under this section commits a breach of the licence, and is therefore liable to be dealt with under section 8A of this Act.

5B Transfer of licence⁸

- (1) A licensee may apply to the Authority to transfer his license to another person.

- (2) The Authority may grant the transfer if it accepts that the person to whom the licence is being transferred is suitable to hold the licence in accordance with this Act.
- (3) A transfer of a licence shall be endorsed on the licence by the Authority, after the prescribed fee is paid to the Authority.

5C Renewal of licences⁹

- (1) A licensee may apply to the Authority to renew a licence issued under this Act, and such applications may be approved if they satisfy the following conditions:
 - (a) submit a written application for renewal of a licence;
 - (b) the application is submitted to the Authority no later than 30 days before the expiry of the licence;
 - (c) the licensee provides written confirmation from the Ministry of Revenue that he has no outstanding tax obligations;
 - (d) the licensee provides written confirmation from the respective relevant authorities that the licensed premises satisfies health, sanitary, fire safety and building standards;
 - (e) the licensee has not breached any of the provisions of this Act;
 - (f) the renewal of the licence is consistent with the purposes of this Act; and
 - (g) the prescribed fee for renewals has been paid.
- (2) A licensee shall pay the prescribed late renewal fee for any application for renewal, that has been submitted late, in accordance with subsection (1)(b).

6 Functions and Powers of the Authority¹⁰

- (1) The Authority shall have the following functions:
 - (a) administer the provisions of this Act in the public interest, particularly protection of the public from the dangers of abuse of liquor;
 - (b) monitor the number, location and geographical distribution of licences;
 - (c) monitor the importation, sale, manufacture and consumption of liquor in the Kingdom;
 - (d) monitor the activities of the liquor sector in the Kingdom, including the availability and advertising of liquor;
 - (e) review the operation of this Act, and recommend to Cabinet any changes required; and
 - (f) any other functions that are consistent with the purposes of this Act.
- (2) The Authority shall have the following powers:

- (a) issue a licence under this Act;
 - (b) impose conditions on licences issued under this Act;
 - (c) order the suspension, whether temporary or for a short term, or revocation of a licence issued under this Act;
 - (d) renew a licence issued under this Act;
 - (e) appoint authorised officers to a unit within the Tonga Police to enforce the provisions of this Act;
 - (f) enter any premises authorised to sell liquor under this Act, or alleged to be selling liquor without a licence;
 - (g) seize any liquor or evidence relevant to any commission of an offence or investigation made under this Act;
 - (h) question any person in relation to any commission of an offence under this Act;
 - (i) summon a licensee to be questioned in relation to compliance with a licence issued under this Act; and
 - (j) any other powers that are consistent with the purposes of this Act.
- (3) The Authority may delegate in writing to any person any of its powers under this Act, except this power to delegate, and any action performed by such person receiving a written delegation from the Authority shall be deemed to be an action by the Authority, unless such delegation is revoked earlier in writing.

7 Licence may not be granted to a company

- (1) It shall not be lawful to grant a licence to any company or body of persons as such but a licence may be issued to and in the name of the manager, agent or other responsible person representing any company or body of persons in respect of such company or body of persons.
- (2) The Authority may upon the payment of the prescribed fee, transfer any licence granted in accordance with subsection (1) hereof to any person succeeding as manager or as the case may be to the manager, agent or other responsible person in whose name the licence is issued.¹¹

8 Duplicate licences¹²

Upon proof being given to the satisfaction of the Authority that a licence has been lost or destroyed and has not been forfeited he shall, on payment of the prescribed fee, grant a duplicate licence which duplicate shall operate in all respects as the original licence.

8A Suspension or revocation of licence for contravention of this Act¹³

- (1) The Authority may, at any time where a licence holder fails to comply with the provisions of this Act order, that a licence be:
 - (a) suspended for a period not exceeding 6 months; or
 - (b) revoked.
- (2) Notwithstanding subsection (1), the Authority may order the temporary suspension of a licence for a period not more than one month in order to:
 - (a) carry out any investigation relating to any alleged breach of a licence;
 - (b) stop a licensed premises from causing a nuisance to the general public, and for the licensee to remedy the situation; or
 - (c) any other reason which is consistent with the protection of the general public from the dangers of abuse of liquor.

WHOLESALE AND BOTTLE LICENCES**9 Wholesale licence¹⁴**

Subject to this Act, the Authority may issue a wholesale licence authorising a licensee to sell and deliver liquor, on wholesale at or from a specified building, for consumption off the premises.

10 Repealed by Act 44 of 2010**11 Retail bottle store¹⁵**

- (1) For the purposes of this section, a “retail bottle store” means a separate retail premises or room that sells only liquor and liquor related products.
- (2) Subject to this Act, the Authority may issue a retail bottle store licence authorising a licensee to sell liquor from a retail bottle store.
- (3) Any liquor sold from a retail bottle store shall not be consumed on or upon the licensed premises.

12 Liquor to be kept in a secure place

- (1) No wholesale or retail bottle store licence shall be granted until the applicant has satisfied the Authority that there is in the building in respect of which such licence is applied for a secure and suitable place for storage of liquor and such place shall be particularly described in the licence.¹⁶
- (2) The licensee shall store his liquor in the said place and shall keep it locked and inaccessible to persons not being employees authorized to enter it. A licensee who fails to comply with this provision shall be guilty of an offence.

- (3) Any liquor found stored in any part of the building other than the approved place specified in the licence may be seized by any police officer above the rank of sergeant and dealt with as a Magistrate may direct.

13 Stock book to be kept

The holder of a wholesale or retail bottle store licence shall keep a stock book and shall upon receiving any intoxicating liquor enter immediately into his stock book the following particulars¹⁷ —

- Quantity and description of the intoxicating liquor received;
- Date of receipt;
- Name and address of person or persons from whom received.

14 Record of sales to be kept¹⁸

- (1) The holder of a wholesale retail bottle store licence shall keep a sales book in which he shall record in ink or indelible pencil at the time of sale every sale of liquor, specifying the date, the name and address of the purchaser and the kind and quantity of liquor sold. The book shall be in the form contained in the Seventh Schedule hereto, and shall at all reasonable times be open to the inspection of any police officer.
- (2) Any holder of a wholesale or bottle licence failing to make an entry in such book, or making a false entry, or refusing or failing to produce such book to a police officer above the rank of sergeant, shall be liable upon conviction to a fine not exceeding \$1,000.
- (3) Any person using other than his correct name in purchasing liquor as in this section provided, shall be liable upon conviction to a fine not exceeding \$500.

15 Failure to keep stock or sales book an offence¹⁹

If any licensee —

- (a) fails to keep a stock book or a liquor sales book as required by sections 13 and 14 or to make in either of such books an entry required by the said sections;
- (b) makes a false entry in such stock or liquor sales book or fraudulently cancels, alters or destroys any part of either of such books or any entry therein; or
- (c) refuses to let an inspector of police or any person thereunto authorized by the Authority examine or check over his stock of intoxicating liquor or inspect or make extracts from his stock book or liquor sales book,

he commits an offence.

16 Consumption on wholesale or retail bottle store premises²⁰

Any person who consumes or permits to be consumed any liquor in or upon any licensed premises commits an offence.

17 Hours of sale by retail or wholesale²¹

- (1) No sale of liquor under a wholesale licence shall take place except between the hours of 8am and 6pm on Mondays to Saturdays.
- (2) No sale of liquor under a retail bottle store licence shall take place except between the hours of 8am to 9pm on Mondays to Saturdays.
- (3) Any person who fails to comply with this section commits an offence.

18 Offence

Any licensee selling or attempting to sell intoxicating liquor during the prohibited hours commits an offence.

19 Repealed by Act 44 of 2010**CLUB LICENCES****20 Registration of clubs²²**

- (1) The secretary of every club (established for social purposes only) which occupies any premises habitually used for the purposes of a club and in which intoxicating liquor is supplied to members or their guests, shall cause the club to be registered in the manner following and the Authority may register any such club for the sale of intoxicating liquor.
- (2) The secretary of such club shall forward to the Authority —
 - (a) an application for registration signed by the chairman or secretary of the club stating the name and object of the club and the address of the premises occupied by the club; and
 - (b) a list containing the names and addresses of the officials and committee of management or governing body.

21 Club licence²³

- (1) Subject to this Act, the Authority may issue a club licence to a club registered under section 20, authorising the sale of liquor by the club only to members of the club.
- (2) Any liquor sold to a member of a club under subsection (1) shall be consumed on the premises of the club.

- (3) Any person who fails to comply with subsection (1) commits an offence.

22 *Repealed*²⁴

23 *Repealed*²⁵.

24 **Club to keep liquor sale book**

- (1) There shall be kept by every registered club a liquor sales to members book in which shall be entered in the case of every sale of intoxicating liquor to a member for consumption off the club premises the date, the name and the address of the purchaser and the kind and quantity of liquor sold.
- (2) The liquor sales to members book of every registered club shall be available at all reasonable times for inspection by a police officer above the rank of sergeant or any person thereunto authorized by the Authority who shall also be entitled to make extracts from such sales book.

25 *Repealed*²⁶

26 **Refusing access to books**

If on the premises of any registered club —

- (a) permission is refused to an inspector or sub-inspector of police or any person thereunto authorized by this Act to inspect or make extracts from the liquor sales to members book; or
 - (b) any intoxicating liquor is sold in violation of the provisions of this Act,
- the person refusing such permission or selling or authorizing the sales of such liquor commits an offence.

27 *Repealed*²⁷

OCCASIONAL LICENCES

28 **Sale at special events**²⁸

- (1) Subject to this Act, the Authority may issue a special events licence authorising the licensee to sell liquor at any place during any special event which the Authority is satisfied that the sale of liquor at such place during such event is reasonable and justified, and is not contrary to the purposes of this Act.

- (2) Notwithstanding any other provisions under this Act, the Authority may impose such conditions as it deems necessary for the purposes of this Act, and such conditions shall include but not limited to the following:
 - (a) the licence shall be valid for a period not exceeding 24 hours;
 - (b) the liquor shall be consumed within specified areas;
 - (c) the container used to serve the liquor for consumption;
 - (d) the number of persons allowed to be served liquor; and
 - (e) the level of security required to be provided by the licensee to ensure public order.
- (3) An application for a licence authorising the sale under subsection (1) shall be made no later than 7 working days before the date of the special event.

PUBLICAN'S LICENCE

29 Bar licence²⁹

- (1) For the purposes of this section a “bar” shall be a place where liquor is sold or served to customers, and shall be located separately from any area used as a restaurant or common area.
- (2) Subject to this Act, the Authority may issue a bar licence authorising the licensee to sell liquor from a bar to be consumed:
 - (a) at the bar;
 - (b) at a designated area within the proximity of the bar; or
 - (c) in a guest room in accommodation where the bar is located.

30 *Repealed*³⁰.

31 Permissible time for sale at a bar³¹

- (1) A licensee holding a bar licence shall sell liquor only during the following times:
 - (a) from Mondays to Fridays, between the hours of 10am and 12.30am; and
 - (b) on Saturdays, between the hours of 12pm and 11.30pm,

Provided that no liquor shall be sold under a bar licence on a Sunday, Good Friday or Christmas Day, except if liquor is sold to a guest of the accommodation where the bar is located, and such liquor is sold between the hours of 12pm to 9pm,

And provided further that no patron of a bar shall remain on the bar premises after 1am from Mondays to Fridays, or after 12am on a Sunday.

(2) Any person who fails to comply with subsection (1) commits an offence.

32 **Repealed**³²

33 **Repealed**³³

34 **Repealed**³⁴

35 **Repealed**³⁵.

36 **Repealed**³⁶

37 **Repealed**³⁷

38 **Repealed**³⁸

39 **Repealed**³⁹

40 **Repealed**⁴⁰

41 **Repealed**⁴¹

42 **Repealed**⁴²

43 **Repealed**⁴³

RESTAURANT LICENCES

44 **Restaurant licences**⁴⁴

(1) A restaurant licence shall authorise the licensee to sell or supply liquor on the licensed premises, during the permitted hours, to, and for consumption on such licensed premises by, any person who, during the permitted hours on that day or night, partakes of a substantial meal cooked on the licensed premises.

- (2) If music, dancing or other reputable entertainment, together with substantial refreshments, are provided during the permitted hours on the licensed premises to which the public have access, a restaurant licence shall authorise the licensee to sell or supply liquor on the licensed premises during the permitted hours, for consumption on the premises on the day or night when such music, dancing or other reputable entertainment, together with substantial refreshments, are provided.
- (3) The permitted hours under a restaurant licence shall be —
 - (a) from Mondays to Saturdays, between the hours of 11am and 11pm; and
 - (b) on Sundays, between the hours of 11am and 9pm.
- (4) Any person who fails to comply with this section commits an offence

45 *Repealed*⁴⁵

NIGHT CLUB LICENCES

45A Night club licence⁴⁶

- (1) Subject to this Act, the Authority may issue a night-club licence authorising the licensee to sell liquor at a night-club for consumption only on the premises of the night-club.
- (2) A licensee authorised to sell liquor under subsection (1) may only do so during the following times:
 - (a) from Mondays to Fridays between the hours of 8pm and 12.30am; and
 - (b) on Saturdays from the hours of 8pm and 11.30pm,

Provided that no sale or supply of liquor shall be permitted between the hours of 11.30pm of the previous day and 12 midnight on any Sunday, Good Friday or Christmas Day,

And provided further that no patron of a night-club shall remain on night-club premises after 1am from Mondays to Fridays, or after 12am on a Sunday.
- (3) Any person who fails to comply with sub-section (1) commits an offence.

APPLICATIONS

46-56 *Repealed*⁴⁷

APPEALS

56A Appeal to Cabinet⁴⁸

- (1) Any person may appeal to Minister of Police from a decision made by the Authority on any matter relating to the operation of this Act.
- (2) The decision of Minister of Police on any appeal made under this section shall be final.

OFFENCES

57 Penalty on sale of liquor by unlicensed person⁴⁹

Every person who sells any liquor without holding a licence or authorizing the sale thereof, shall for the first offence, be liable to a fine not exceeding \$5,000 or to imprisonment for a period not exceeding 2 years, or to both such fine and imprisonment, and for any subsequent offence to a fine not exceeding \$10,000 or to imprisonment for a period not exceeding 3 years, or to both such fine and imprisonment. Upon any conviction under this section the offender shall forfeit all liquor in his possession with the vessels containing the same, to the use of the Crown, and the same may be sold by order of a Court and the proceeds of the sale be paid to the Treasury. In the case of a second or subsequent offence, the offender shall be declared after conviction by such court to be, and shall thereupon be, disqualified from holding a licence of any description for the sale of liquor for a period of 12 months from the date of such conviction.

58 Penalty for allowing unlicensed person to sell

Every licensee who employs any person to sell any liquor in any premises, vehicle, vessel or boat or in any place whatsoever not being within the premises or in the place in which such licensee is authorized to sell liquor by his licence, or permits any person to sell liquor on the licensed premises of such licensee otherwise than as his servant or agent, shall for every such offence be liable to a fine not exceeding \$1,000.⁵⁰

59 Penalty on refusal to receive travellers⁵¹

No holder of a licence shall, if there be accommodation, refuse to receive any person as a guest into his house or to supply him with food and lodging, unless the person be intoxicated or a known disreputable person and provided that he is able and

willing to pay for his accommodation. Every such licensee contravening this section shall be liable to a fine not exceeding \$1,000.

60 Exclusion of inebriates and others from licensed premises⁵²

Notwithstanding anything in section 59, any licensee may refuse to admit into, and may turn out of, his licensed premises, any person who is drunk, violent, quarrelsome, disorderly, or who is using profane or foul language, or any person who is suffering from any infectious disease, or whose presence on his premises would subject him to a penalty.

Any such person who, upon being requested by such licensee, his agent or servant, or by any police officer, to quit such premises refuses or fails so to do, shall, on conviction, be liable to a fine not exceeding \$500 or in default of payment to imprisonment for any period not exceeding one month. It shall be the duty of a police officer on the demand of such licensee, agent or servant to expel or assist in expelling every such person from such premises and he may use any reasonable degree of force required for that purpose.

61 Penalty for permitting disorderly persons to continue on licensed premises⁵³

Every licensee, who knowingly suffers or permits any common prostitutes, thieves, drunken or disorderly persons, or persons of notoriously bad character, to assemble or continue upon his licensed premises or the appurtenances thereto, shall be liable to a fine not exceeding \$500. If any licensee is convicted of permitting his premises to be used as a brothel he shall be liable to a fine not exceeding \$5,000 and he shall be disqualified from holding a licence for a period of 2 years.

62 Liquors carried about for sale to be seized and forfeited

- (1) Any police officer may seize all liquor which he may reasonably suspect to be, or to have been, carried about or exposed for sale in any street, road, footpath, booth, tent, store, shed, boat or vessel, or in any place whatsoever by any person not holding a licence to sell the same therein respectively, and also every vessel containing or used for drinking or measuring the same, and every cart, dray or motor or other vehicle, and every horse or animal carrying or drawing the same, and every boat or vessel conveying the same.
- (2) Any person not being the holder of a licence who carries or exposes for sale any liquor as aforesaid, shall be guilty of an offence and shall be liable to a fine not exceeding \$1,000 or in default of payment to imprisonment for any period not exceeding 6 months, and the Court may adjudge any such liquor, vessel, cart, dray or motor or other vehicle, horse or other animal, boat or vessel to be forfeited, and may order the same to be sold, and the proceeds thereof shall be paid into general revenue.⁵⁴

63 Gaming prohibited on licensed premises

If any licensee suffers any unlawful game whatsoever to be played on his licensed premises, or if such licensee or any servant or person in charge of such premises, connives at the playing of any such game thereon, every such person so offending shall be liable to a fine not exceeding for the first offence \$1,000, and not exceeding for the second and any subsequent offence \$2,000:⁵⁵

Provided that nothing herein shall be held to refer to any billiard-table licensed under the provisions of any Act for the time being in force.

64 Minimum of strength of spirituous liquors

- (1) No licensee shall sell or dispose of any spirituous liquors (bitters, liquers and cordials excluded) of less strength than 35 per cent under proof with the exception of rum which must not be less than 45 per cent under proof and all spirituous liquors (bitters, liquers and cordials excluded) of less strength than that prescribed by this section found on the premises of any licensee shall be forfeited.
- (2) Any licensee selling or having on his premises any spirituous liquor of a strength which contravenes the provisions of this section shall be guilty of an offence.

65 Under-aged persons⁵⁶

Any person who:

- (a) knowingly sells or supplies or allows to be sold or supplied, to any person under the age of 18 years, any liquor at any licensed premises for consumption therein;
- (b) is under the age of 18 years who purchases or attempts to purchase any liquor at any licensed premises for his own consumption therein;
- (c) knowingly sends a person under the age of 18 years to any licensed premises for the purpose of purchasing liquor; or
- (d) allows any person who is under the age of 18 to be at any bar or night-club,

commits an offence, and shall be liable upon conviction to a fine not exceeding \$1,000.

66 Penalty for supplying liquor to intoxicated persons⁵⁷

If any licensee or his servant supplies liquor to any person who is at the time in a state of intoxication, such licensee shall for the first offence be liable to a fine not exceeding \$500 and for any subsequent offence to a fine not exceeding \$1,000.

67 Licensed premises not to be occupied as ballroom, concert room, etc.⁵⁸

If any licensee permits any room or portion of his licensed premises, or the appurtenances thereof, to be used, or occupied as a ballroom or as a concert or theatrical saloon, or as a place of common resort to which persons shall be admitted by ticket or payment, he shall be liable to a fine not exceeding \$1,000:

Provided that nothing in this section shall apply to any rooms in or appurtenances to, any licensed premises while used for the purpose of holding therein any ball or other entertainment, for the holding of which a permit shall have been granted by the Authority.

68 Cancellation of any licence

If any licensee is convicted of felony or of any offence for which he is sentenced to imprisonment with hard labour or penal servitude, his licence may be cancelled by the Court.

69 Penalty for non-production of licence⁵⁹

Every licensee shall on demand at the place or vessel for which the licence has been granted produce his licence to any police officer above the rank of sergeant. If any such licensee refuses or neglects to produce his licence on such demand he shall be liable to a fine not exceeding \$200.

70 Constable may enter licensed premises in performance of duty

It shall be lawful for any constable to enter any licensed premises at any time for the purpose of preventing or detecting the violation of any of the provisions of this Act which it is his duty to enforce.

71 Reward to persons giving evidence⁶⁰

If any person is instrumental in bringing to justice any offender against this Act whereby such offender is convicted of an offence or ordered to pay any forfeiture or other sum of money under this Act the Authority may if it sees fit order payment to such person of any sum not exceeding one half of the fine or other money recovered on conviction of such offender.

72 Obstructing officer acting in discharge of duty

Any person who obstructs or interferes with any public officer or any of his subordinates in the discharge of any authority conferred or duty imposed under this Act shall be guilty of an offence.

73 Procedure for search of unlicensed premises

- (1) Upon the complaint on oath before a Magistrate that the complainant suspects and believes that any liquor has been sold or is being kept for the purpose of sale at or in some place not licensed for such purpose to be specified in such complaint and upon reasonable grounds being shown for such suspicion and belief such Magistrate may grant a warrant to any constable to enter and search such specified place.
- (2) Such constable may break open any doors not opened within a reasonable time after demand and may seize all liquors which he shall then and there find and every vessel in which the same shall be.
- (3) Such Magistrate shall thereupon grant a summons requiring the occupier of such premises to appear before the Court to show how and for what purpose he became possessed of such liquor. And upon his so appearing or if he shall fail to appear then after proof on oath of the service of such summons upon him the Court shall inquire into the matter and if it shall be satisfied by reasonable proof that any liquor was illegally sold the Court shall adjudge the defendant guilty of an offence and convict such defendant accordingly and shall in addition to any punishment authorized by the Act declare such liquor and also every such vessel as aforesaid to be forfeited to the Crown and the same shall be sold and the proceeds of sale after payment thereof of any costs awarded shall be paid into the Treasury.

74 Penalty for harbouring or bribing police⁶¹

If any licensee knowingly harbours or suffers to remain on his premises any police officer, during any part of the time appointed for such police officer to be on duty, unless for the purpose of keeping or restoring order or in the execution of his duty, or supplies any liquor or refreshments whether by way of gift or sale to any police officer on duty (unless by the authority of the superior officer of such officer) or bribes or attempts to bribe, any police officer, he shall be liable upon conviction to a fine not exceeding \$5,000 or to imprisonment for a period not exceeding 2 years.

75 Penalty on officer taking bribe⁶²

If any police officer takes or receives any fee, gratuity or reward whatsoever, whether pecuniary or of any other kind, not being part of his official emoluments, and whether directly or indirectly, on account of anything done or to be done by such police officer in, or in any way relating to, his duties under this Act, he shall be liable upon conviction to a fine not exceeding \$10,000 or to imprisonment for a period not exceeding 10 years. And if any person gives, offers or promises to give whether directly or indirectly to any police officer, any such fee, gratuity or reward, the person giving, offering or promising shall, be liable upon conviction to a fine not exceeding \$5,000 or to imprisonment for a period not exceeding 2 years.

PART II - LIQUOR PROHIBITION⁶³

PROHIBITION ORDERS

94 Prohibition orders

- (1) Upon the application of any person, or upon the application of any relative of such person or upon the application of the Minister of Police, and upon proof that such person is of confirmed intemperate habit, a Magistrate may make a prohibition order in respect of such person.⁶⁴
- (2) A Magistrate shall before making a prohibition order (except where the person to be prohibited is himself the applicant therefor) issue a summons requiring the person against whom such order is sought to attend and show cause why a prohibition order should not be made against him. If at the time appointed by the summons such person shall fail to attend, it shall be lawful for the Magistrate, notwithstanding his absence, upon proof on oath that such summons has been duly served to hear and adjudicate upon the application for such order.
- (3) Any liquor in the possession of a prohibited person may be seized by the police.
- (4) A prohibition order shall be in the form set out in the Sixth Schedule hereto.

95 Rescission of order after 3 years

- (1) A prohibition order may at any time not less than 3 years after the date of the order be rescinded by the Magistrate of the district in which the prohibited person resides upon the application of the prohibited person.
- (2) The prohibited person shall apply for summonses directed to the party who sought the order (if any other than the prohibited person) and the officer in charge of the police of the district, calling upon them to appear before the Magistrate on a day not less than 14 days after the date of summons to show cause why the prohibition order should not be rescinded.
- (3) Upon the parties appearing in answer to the summonses, or, in the absence of any party other than the prohibited person upon proof of the service of the summons, or if the person who sought the order is dead or has left the Kingdom, then upon proof of such death or departure, the Magistrate may proceed to hear and adjudicate upon the application; and if it is made to appear to him that the prohibited person has in all respects complied with the prohibition order, he may make an order rescinding the same.

96 Final prohibition order

Where any person who has been the subject of a prohibition order which has been rescinded is within 3 years after such rescission convicted of drunkenness or of any offence against this Act or is at any time found after due inquiry by a Magistrate to be of confirmed intemperate habit, the Magistrate shall make an order to prohibit such person from drinking or having in his possession any intoxicating liquor for the term of such person's life and such order shall be called a final prohibition order.

97 Magistrate to publish prohibition order

Whenever a Magistrate has made a prohibition order or an order under section 95 hereof he shall cause a written notice of the order to be given to all licensees and secretaries of registered clubs and shall cause a like notice to be published in the Gazette and exhibited in a prominent position in some part of the Magistrate's Court to which the public have access.

98 Penalty for prohibited person found drinking

Any person against whom a prohibition order is made who is found in possession of or drinking intoxicating liquor shall be guilty of an offence.

99 Supplying prohibited person

Whosoever knowing that any person is the subject of a prohibition order directly or indirectly supplies or assists in supplying such person with intoxicating liquor shall be guilty of an offence.

100 Licensee's servant liable to penalty⁶⁵

Every servant and agent of any holder of a licence who knowingly permits any person against whom a prohibition order is in force to be in or remain upon the licensed premises shall be liable to a fine not exceeding \$500 and in default of payment to imprisonment for any term not exceeding 6 months but nothing in this section contained and no conviction of a servant or agent thereunder shall be deemed or construed as in any way altering or diminishing the liability or responsibility of any licensee for the acts or omissions of his servants or agents.

101 Prohibited person shall not go in licensed premises

Every holder of a licence who permits any person against whom a prohibition order is in force (other than a waiter or a servant employed by the licensee or a servant of a guest or lodger) to be or remain on his licensed premises without any legitimate reason for so being shall be guilty of an offence and on conviction shall be liable to a fine not exceeding \$500 and in default of payment to a term of imprisonment not

exceeding 3 months and any prohibited person so being or remaining on the said licensed premises shall be liable to the same penalty.⁶⁶

PART III - GENERAL

102 General penalty⁶⁷

Any licensee who is convicted of an offence under this Act may also be liable to be ordered by the Court to be disqualified from holding a licence under this Act for any period or permanently, and may also be subject to a prohibition order under this Act.

103 Licensee responsible for acts of his servants

Every licensee shall be liable and responsible for any acts or omissions of his servants or agents in contravention of the provisions of this Act and where any licensee is charged with an offence against this Act it shall be lawful to convict such licensee notwithstanding that it shall appear that the offence charged was not committed by such licensee personally but by his servant or agent.

104 Procedure on prosecution

- (1) All proceedings for offences against this Act or for recovery of any forfeiture or money under this Act shall be by summons before a Magistrate and the mode of procedure shall be according to the law in force for the time being in respect of other offences punishable on conviction before a Magistrate.
- (2) All such proceedings may be prosecuted in the name or at the instance of the Attorney General.⁶⁸

105 Limitation

No conviction shall take place under this Act upon any complaint which shall not have been made within 4 months next after the commission of the offence charged.

106 Certificate of government analyst

In any proceedings under this Act a certificate purporting to be signed by a government analyst stating the alcoholic content and nature thereof in any liquid submitted for his examination, shall be admissible in evidence for all the purposes of this Act.

107 Every liquid to be deemed liquor

In any proceedings for an offence under this Act, where the informant relies on the fact, or orally alleges, that any liquid is or may be liquor, such liquid shall be deemed to be liquor until the contrary is proved.

108 Delivery of liquor *prima facie* evidence of sale

The delivery of any liquor shall be *prima facie* evidence of sale within the meaning of this Act, so as to support a conviction, unless satisfactory proof to the contrary shall be adduced to the Court hearing the same.

109 Burden of proof

Any exception, exemption, proviso, excuse or qualification whether it does or does not accompany in the same section the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the charges or complaint, and, if so specified or negatived no proof in relation to the matter so specified or negatived shall be required on the part of the complainant.

110 Power to make rules⁶⁹

- (1) The Minister, with the consent of Cabinet, may from time to time as occasion may require and as may be deemed expedient make, alter, add to, or revoke rules for carrying into effect the provisions of this Act, for prescribing the several forms to be used and generally respecting all matters incidental to the working of this Act.
- (2) By such rules there may be imposed in respect to the breach of any of them a penalty of a fine not exceeding \$500 or a period of imprisonment not exceeding 6 months.

FIRST SCHEDULE*(Section 4(2))***LICENCE FEES⁷⁰**

Wholesale Licence	\$5,000.00
Retail Bottle Store Licence	\$2,000.00
Club Licence	\$3,000.00
Special Events Licence	\$250.00
Bar Licence	\$2,000.00
Restaurant Licence	\$1,250.00
Night Club Licence	\$3,000.00
Transfer of any Licence	\$150.00
Duplicate of Lost Licence	\$100.00
Late Renewal Fee	\$500.00

SECOND SCHEDULE⁷¹

(Section 4(3))

FORM OF LICENCE

Licence is hereby granted to of
to sell liquor on or from a:

- (a) Wholesale;
- (b) Retail Bottle Store;
- (c) Club;
- (d) Special Event;
- (e) Bar;
- (f) Restaurant;
- (g) Night-club;

This Licence applies only to the premises situated at

and at present occupied by, and will
expire on the day of, 20.....

CONDITIONS:

Given under my hand this day of, 20
Fee paid: \$:

.....
Liquor Licensing Authority

FOURTH SCHEDULE

*repealed*⁷³

SIXTH SCHEDULE

LIQUOR PROHIBITION

Prohibition Order
(Section 94)

In the Magistrate’s Court at

Upon hearing of on his own application.

OR

Upon hearing the application of of that a prohibition order under the provisions of the Intoxicating Liquor Act should be made against of

IT IS ORDERED that the said of is not to have in his possession or to drink any intoxicating liquor.

Dated this day of 19.....

.....
Magistrate.

PUBLIC NOTICE OF PROHIBITION ORDER
(Section 97)

A Prohibition }
A Final Prohibition } Order under Section 97 of the Intoxicating Liquor Act has this day been made against (insert name, residence and occupation of person against whom order has been made) in the Magistrate’s Court at and he is not to be supplied with any intoxicating liquor.

Dated this day of 19.....

.....
Magistrate.

PUBLIC NOTICE OF RESCISSION ORDER
(Section 95)

AN ORDER rescinding the Prohibition Order made against (name, address and occupation of person concerned) on the day of 19....., has this day been made in the Magistrate’s Court at

Dated this day of 19.....

.....
Magistrate.

SEVENTH SCHEDULE**LIQUOR SALES BOOK
(Sections 14 and 29)**

Date	Purchaser	Address	Nationality	Liquor	Quantity	Permit No
-------------	------------------	----------------	--------------------	---------------	-----------------	------------------

**LIQUOR STOCK BOOK
(Section 13)**

Date of Receipt	Description of Liquor received	Quantity	From whom Received
------------------------	---------------------------------------	-----------------	---------------------------

ENDNOTES

¹ **1988 Revised Edition, Cap 84** — Acts 25 of 1950, 4 of 1951, 6 of 1957, 16 of 1957, 6 of 1962, 20 of 1966, 25 of 1976, 10 of 1981, 20 of 1987, 46 of 1988

Amending Acts	Commencement
Act 6 of 1989	7 May 1990
Act 15 of 1995	9 November 1995
G.S 51/2008	2 December 2010
Act 44 of 2010	22 November 2010

² Inserted by Act 44 of 2010

³ Amended by Acts 25 of 1950 and 6 of 1989

⁴ Substituted by Act 44 of 2010

⁵ Substituted by Act 44 of 2010

⁶ Substituted by Act 44 of 2010

⁷ Inserted by Act 44 of 2010

⁸ Inserted by Act 44 of 2010

⁹ Inserted by Act 44 of 2010

¹⁰ Substituted by Act 44 of 2010

¹¹ Amended by Act 44 of 2010

¹² Amended by Act 44 of 2010

¹³ Inserted by Act 44 of 2010

¹⁴ Substituted by Act 44 of 2010

¹⁵ Substituted by Act 44 of 2010

¹⁶ Amended by Act 44 of 2010

¹⁷ Amended by Act 44 of 2010

¹⁸ Amended by Act 44 of 2010

¹⁹ Amended by Act 44 of 2010

²⁰ Substituted by Act 44 of 2010

²¹ Substituted by Act 44 of 2010

²² Amended by Act 44 of 2010

²³ Substituted by Act 44 of 2010

²⁴ Repealed by Act 44 of 2010

²⁵ Repealed by Act 44 of 2010

²⁶ Repealed by Act 44 of 2010

- [27](#) Repealed by Act 44 of 2010
- [28](#) Substituted by Act 44 of 2010
- [29](#) Substituted by Act 44 of 2010
- [30](#) Repealed by Act 44 of 2010
- [31](#) Substituted by Act 44 of 2010
- [32](#) Repealed by Act 44 of 2010
- [33](#) Repealed by Act 44 of 2010
- [34](#) Repealed by Act 44 of 2010
- [35](#) Repealed by Act 44 of 2010
- [36](#) Repealed by Act 44 of 2010
- [37](#) Repealed by Act 44 of 2010
- [38](#) Repealed by Act 44 of 2010
- [39](#) Repealed by Act 44 of 2010
- [40](#) Repealed by Act 44 of 2010
- [41](#) Repealed by Act 44 of 2010
- [42](#) Repealed by Act 44 of 2010
- [43](#) Repealed by Act 44 of 2010
- [44](#) Amended by Act 44 of 2010
- [45](#) Repealed by Act 44 of 2010
- [46](#) Substituted by Act 44 of 2010
- [47](#) Repealed by Act 44 of 2010
- [48](#) Amended by Act 44 of 2010
- [49](#) Amended by Act 44 of 2010
- [50](#) Amended by Act 44 of 2010
- [51](#) Amended by Act 44 of 2010
- [52](#) Amended by Act 44 of 2010
- [53](#) Amended by Act 44 of 2010
- [54](#) Amended by Act 44 of 2010
- [55](#) Amended by Act 44 of 2010
- [56](#) Substituted by Act 44 of 2010
- [57](#) Amended by Act 44 of 2010
- [58](#) Amended by Act 44 of 2010
- [59](#) Amended by Act 44 of 2010
- [60](#) Amended by Act 44 of 2010
- [61](#) Amended by Act 44 of 2010

- [62](#) Amended by Act 44 of 2010
- [63](#) Amended by Act 6 of 1989; sections 76 to 93 were repealed
- [64](#) Amended by Act 6 of 1989
- [65](#) Amended by Act 44 of 2010
- [66](#) Amended by Acts 6 of 1989 and 44 of 2010
- [67](#) Substituted by Act 44 of 2010
- [68](#) Amended by Act 46 of 1988
- [69](#) Amended by Act 44 of 2010
- [70](#) Substituted by Act 44 of 2010
- [71](#) Substituted by Act 44 of 2010
- [72](#) Substituted by Act 44 of 2010
- [73](#) Repealed by Act 44 of 2010