

FIJI ISLANDS

LIQUOR ACT 2006

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ACT NO. 8 OF 2006

I assent.

[L.S.]

J. I. ULUIVUDA
President

[22nd March 2006]

AN ACT

TO REPEAL THE LIQUOR ACT (CAP. 192) AND TO MAKE PROVISION FOR THE CONTROL OF THE SALE, SUPPLY AND CONSUMPTION OF LIQUOR, AND FOR RELATED MATTERS

[1st June 2006]

ENACTED by the Parliament of the Fiji Islands-

PART 1 - PRELIMINARY

Short title

1.-(1) This Act may be cited as the Liquor Act 2006.

(2) This Act commences on a date appointed by the Minister by notice in the *Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires-

"Authority" means a Divisional Liquor Licensing Authority established under section 5;

"bar" in relation to any licensed hotel or tavern premises, includes any part of the hotel or tavern that is used principally or exclusively for the sale, supply and consumption of liquor;

"Board" means the Central Liquor Board established under section 3;

"club" includes a club duly registered under the Registration of Clubs Act and includes a club that has as its object, or one of its objects, participating in or promoting any sport or other recreational activity, otherwise than for gain;

"conveyance" means any vessel, aircraft or other prescribed vehicle used for the transport of persons;

"counsel" means a legal practitioner;

"Division" means any of the four areas of Divisional administration under the administrative responsibility of a Divisional Commissioner;

"Divisional Commissioner" means an administrative officer in charge of the Division in which the licensed premises are situated or in which it is intended to situate them;

"hotel" means any premises used or intended to be used in the course of business principally for the provision to the public of-

(a) lodging; and

(b) liquor, meals and refreshments for consumption on the premise;

"intended person" means any person in respect of whom it is intended to make an application for a prohibition order;

"licence" means a licence to sell or supply liquor issued under this Act;

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

"licensee" means the holder of a licence granted under the provisions of this Act;

"liquor" means any spirit, wine, ale, beer, porter, cider, perry, hop beer or any liquor of a strength exceeding three per cent of proof spirit, but does not include methylated spirits;

"local authority" means-

(a) for urban areas, the appropriate city or town council constituted under the Local Government Act (Cap. 125);

(b) for rural areas, Rural Local Authorities and the Central Board of Health constituted under the Public Health Act (Cap. 111);

"magistrate" means a magistrate having jurisdiction in the Division in which the Licensed premises are situated or in which it is intended to situate them;

"methylated spirits" includes crude alcohol, power alcohol, rectified spirits, rectified spirits which have been de-natured to a prescribed standard under the Customs Act 1986, industrial spirits or any mixture of such alcohol or spirits whatsoever;

"nightclub" means licensed premises where music, dancing or other reputable entertainment is provided and members of the public gain access whether or not by purchase of a ticket for one period of permitted hours;

"off-premises use" means the sale or delivery of liquor on or from premises described in a licence for consumption off the premises;

"on-premises use" means the sale or supply of liquor for consumption on the premises or conveyance described in a licence;

"plan" means a plan approved or certified by local authority of the licensed premises or the premises intended to be licensed which is to be supplied to the Central Liquor Board or an Authority under the provisions of this Act;

"private hotel" means any premises (excluding a club) where meals are sold or supplied to paying resident guests and any premises not being a common lodging house or a house let as lodgings, where provision is made for more than 6 paying guests to be accommodated overnight;

"prohibited person" means any person in respect of whom a prohibition order is in force;

"prohibition order" means an order made under the provisions of Part 10, prohibiting the person named therein from drinking or being in possession of liquor;

"registered medical practitioner" means a medical practitioner registered under the provisions of the Medical and Dental Practitioners Act;

"restaurant" means any premises in which meals are regularly supplied on sale to the public for consumption on the premises;

"restricted area" in relation to any licensed premises, means any part of those premises so designated by the Central Liquor Board or an Authority to which persons under the age of 21 years are not to be admitted;

"shop" has the same meaning as in the Shop (Regulation of Hours and Employment) Act, and the term "grocery shop" means a shop whose principal business is the sale of groceries, frozen food, light pharmaceuticals, light hardware, and assorted household and personal goods;

"supervised area", in relation to licensed premises, means any part of those premises so designated by the Central Liquor Board or an Authority to which persons under the age of 21 years may not be admitted unless accompanied by a responsible adult;

"tavern" means any premises used or intended to be used in the course of business

principally for the provision to the public of liquor and other refreshments, but does not include an airport bar.

PART 2 - LIQUOR LICENSING AUTHORITIES

Establishment of Central Liquor Board

3.-(1) There is hereby constituted a Central Liquor Board which shall consist of a chairperson and three other members appointed by the Minister. No public officer shall be qualified for appointment as a member, except the Solicitor-General or his nominee, who shall be an *ex officio* additional member without voting rights.

(2) Each member, including the chairperson, shall be appointed for a term of two years and shall be eligible for reappointment, but no member or chairperson shall serve for more than six consecutive years.

(3) The Minister shall designate a suitably experienced public officer to be the secretary to the Board.

(4) At all meetings of the Board the chairperson, or in his absence, such member as the other members present may select, shall preside.

(5) Three members of the Board shall constitute a quorum at any meeting of the Board.

(6) The Board shall hold its meetings in private except when it is hearing an appeal from a decision of an Authority, when applicants and counsel may appear before the Board.

(7) At all meetings of the Board, the decision of the majority of members present shall prevail. In the case of any equality of votes on any decision, the person presiding shall have a second or casting vote.

(8) Subject to the provisions of this Act, the Board may regulate its own procedure at its meetings.

(9) The Board shall cause proper records of its proceedings to be taken and maintained by its secretary.

Functions of Central Liquor Board

4.-(1) The functions of the Board are;

(a) to advise the Minister on any policy matters, including the total number of licences granted and the types of conditions imposed, including special conditions, related to liquor legislation and its administration and any other related legislation;

(b) to make recommendations to the Minister on any matter including policy matters related to liquor legislation and its administration and any other related legislation;

(c) to assist the Minister in the formulation of policies or strategies relating to liquor legislation and its administration and to any other related legislation;

(d) as it thinks fit, to advise all or any Authorities in relation to any matter including policy matters related to liquor legislation and its administration;

(e) from time to time as it thinks fit, to give to any Authority general or special directions, not inconsistent with the provisions of the Act or of any regulations made under the Act or with any directions given to the Board by the Minister, for guidance as to the exercise of any powers, discretions or functions under this Act or any regulations made under this Act;

(f) to decide appeals from Authorities under section 23;

(g) to consider and determine applications for special conditions for licences or renewal of licences where the applicant or licensee is seeking special conditions other than conditions which an Authority may impose under the Act;

(h) to make an annual report to the Minister concerning the operations of this Act for tabling in Parliament; and

(i) any functions conferred on the Board by or under this Act or any other written law.

(2) The Board has all powers as are conferred on it by or under this Act or by any other written law and all other powers as may be reasonably necessary to enable it to exercise its jurisdiction and perform its functions properly.

(3) In the exercise of its powers, duties and functions, the Board shall act in accordance with any general or special directions given to it by the Minister.

Establishment of Divisional Liquor Licensing Authorities

5.-(1) There is hereby constituted a Divisional Liquor Licensing Authority in respect of each Division in the Fiji Islands, each of which shall consist of a magistrate, who shall be the chairperson, appointed by the Minister on the nomination of the Chief Magistrate, the Divisional Commissioner and three persons appointed by the Minister who are not public officers and who are normally resident in the Division.

(2) Each member, excluding the chairperson and the Divisional Commissioner, shall be appointed for a term of two years and shall be eligible for reappointment, but no member shall serve for more than six consecutive years.

(3) In relation to any application concerning a rural area within a Division, the Roko Tui of the relevant Province and the Chairperson of the relevant Advisory Council shall be co-opted members, with voting rights, of the Authority for that Division.

(4) The Minister shall designate, in respect of each Division in the Fiji Islands, a suitably qualified person as secretary to each Authority.

Proceedings of Divisional Liquor Licensing Authorities

6.-(1) At all meetings of the Authority the chairperson, or in his absence such member as the other members present may select, shall preside.

(2) At all meetings of an Authority, the decision of the majority of members shall prevail. In the case of an equality of votes on any decision, the person presiding shall have a second or casting vote.

(3) All meetings of an Authority shall be held in public except that an Authority may retire to consider any of its decisions in private.

(4) The quorum of an Authority shall be three.

(5) Subject to the provisions of this Act and any regulations made under it, an Authority may regulate its own procedure.

(6) An Authority shall cause proper records of its proceedings to be kept and maintained by its secretary, and such records shall include a sufficient note of any evidence given or legal submission made before it, and its reasons for its decisions.

Powers of Divisional Liquor Licensing Authorities

7. Subject to the provisions of this Act, an Authority shall have power, in respect of the Division for which it is constituted-

(a) to consider and determine applications for the granting, variation or renewal of liquor licences for on-premises use, off-premises use, club use and special use, to accept surrender or cancellation of licences and to perform all functions imposed by the Act;

(b) to act on general or special directions given by the Board, not inconsistent with the provisions of the Act or of any regulations made under the Act or with any directions given to the Board by the Minister, for guidance as to the exercise of any powers, discretions or functions under this Act or any regulations made under this Act;

(c) to exercise all the powers of a magistrates' court in its summary jurisdiction under the Criminal Procedure Code of summoning and enforcing the attendance of witnesses, examining witnesses on oath and the production of documents;

(d) to admit any evidence, whether written or oral and whether or not such evidence would be admissible in civil or criminal proceedings;

(e) to exclude from any of its hearings any person, other than its own members or officials, if necessary for the due or orderly conduct of its proceedings;

(f) to award costs.

Interpreter

8.-(1) An Authority shall have power to appoint an interpreter.

(2) An interpreter appointed under this section shall take an oath or make an affirmation as to the proper performance of his duties in such form as the Minister shall prescribe.

(3) Any person appointed by an Authority as an interpreter who wilfully gives a false interpretation of any evidence, or makes an untrue translation of any document, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding \$400 or imprisonment for a term not exceeding 12 months.

Representation by counsel

9. Any applicant to an Authority or any objector to the grant of a licence or renewal thereof shall be entitled to be represented by counsel before the Authority, and any other interested person or party may by leave of the Authority be represented by counsel before it.

Protection of members of Board or Divisional Liquor Licensing Authorities

10. No member of the Board or an Authority shall be liable for any civil or criminal wrong for any act done or ordered to be done in good faith by such Board or Authority, as the case may be, in the discharge of its functions under this Act.

PART 3 - LICENSING: GENERAL

Exemption from holding licence under the Business Licensing Act

11.-(1) Notwithstanding the provisions of this Act or those of the Business Licensing Act, all licences granted under the provisions of this Act, except for off-premises use, authorise the sale on the licensed premises of non-alcoholic beverages, cigars, cigarettes, tobacco and matches outside the permitted hours.

(2) Notwithstanding any provisions of the Business Licensing Act to the contrary, the holder of a licence for on-premises use granted in respect of a hotel, tavern, private hotel or restaurant shall not require any licence under the provisions of that Act in respect of supplying meals on the

licensed premises.

Divisional Liquor Licensing Authority may give preliminary approval

12. An Authority may provide preliminary provisional approval, with conditions, of the application of the grant of a licence under this Act, based on a submission in writing made to the Authority enclosing a plan which should be endorsed or certified by the relevant planning authorities, providing details such as the boundaries of the premises to be licensed, the proposed bars and restricted areas or supervised areas.

Advertisement of application

13. Where under this Act any application for a licence or renewal thereof or for a variation or cancellation of conditions of a licence is directed to be advertised, the applicant shall advertise his intention of applying for such a licence in newspapers published and circulating widely in the Fiji Islands in the English, Fijian and Hindustani languages, once in a newspaper in each of those languages.

Furnishing of plans

14. Applicants for licences or licensees must furnish plans containing such plans as are prescribed and containing such particulars as are prescribed.

Term of licences

15.-(1) Licences issued under this Act, except licences for special use, may be granted for a term not exceeding 3 years from the date of issue, provided that the Authority to which an application for the renewal of the licence has been made, may extend the licence for any period not exceeding three months for due consideration to be given to the renewal, or for any other good cause.

(2) Subsection (1) applies subject to-

- (a) the requirements of this Act relating to the payment of fees; and
- (b) the provisions of this Act relating to the suspension and cancellation of licences.

Disqualification from holding a licence

16. Notwithstanding any other provisions of this Act, no person shall be granted a licence or the renewal or the transfer thereof-

- (a) if the person is a natural person
 - (i) who is under the age of 21 years;

(ii) who at the time of such grant, renewal or transfer, is in prison or insane or an undischarged bankrupt, or is unable for any reason to properly supervise the licensed premises;

(iii) who does not have any financial interest, or who does not hold a senior management or leadership position in the business to which the licence applies;

(iv) who is not resident in the Fiji Islands;

(v) who holds a suspended licence or is presently disqualified from holding a licence;

(vi) who has been convicted of an offence against this Act or the repealed Act or of an offence against the person or of dishonesty;

(b) if the person is a body corporate, the manager named as responsible for the operation of the licence, falls within one or more of the subparagraphs in paragraph (a).

Surrender of licence

17. A liquor licence may be surrendered by the licensee upon the licensee informing the authority in writing of the intention to surrender the licence.

Procedure in relation to suspension or cancellation of licences

18.-(1) Upon a complaint being made in writing by any person to an Authority, concerning any licensee or licensed premises, which in the opinion of that Authority discloses any grounds upon which the licence is liable to be suspended or cancelled under this Act, that Authority must inform the licensee of the substance of the complaint and after giving him an opportunity of rebutting such grounds as are alleged in the complaint, must decide whether or not to suspend or cancel the licence.

(2) The decision to suspend or cancel a licence made by the Authority under this section together with the reasons for the decision shall be notified in writing to the licensee who may appeal against such decision to the Board in accordance with the regulations and the decision of the Board shall be final.

Issue of licence

19. The decision of the Authority made by a duly constituted meeting of the Authority and signified under the hand of the chairperson of the Authority to grant a licence or renewal thereof, shall be sufficient authority to the licensing officer to issue or renew the licence, as the case may be, on payment of the prescribed fee.

Transfer of licence

20.-(1) An application for the transfer of a licence may be made in the prescribed form to an Authority.

(2) Any person to whom a licence is transferred shall, during the currency of such licence, possess the same rights and shall be liable to the same obligations and penalties as if such licence had been originally granted to him.

Removal of licence to other premises

21. Subject to the provisions of section 22, any licensee who desires to remove any licence from the licensed premises or conveyance, to any other premises or conveyance, may make application in that regard in the same manner as for a new licence of the same nature as that held by him in respect of the premises or conveyance from which he desires to remove such licence and all of the provisions of this Act, including the requirement for the suitability of the proposed premises, shall apply to such application as though it were an application for a new licence.

Temporary licences

22.-(1) If the licensed premises, or conveyance, of any licensee shall; in the course of any alteration or repair, or by fire or natural disaster be or become liable to be rendered unfit for carrying on his business, an Authority may, upon an application being made by such licensee in writing, by order in writing under the hand of the chairperson, authorise such licensee to carry on his business in any part of the licensed premises or in any neighbouring premises or in any other conveyance, for any period not exceeding twelve months.

(2) Notwithstanding the provisions of subsection (1), an Authority may, in its discretion but subject to the prior consent in writing of the Central Liquor Board, upon an application by the licensee, extend the period of an order made under subsection (1) by a further period or periods not exceeding six months on any one occasion, or the expiry date of the current licence, whichever is the earlier.

Appeal from decision of Divisional Liquor Licensing Authority

23. Any applicant or objector who is aggrieved by the decision of an Authority may, if dissatisfied with such decision as being erroneous in point of law, apply to the Central Liquor Board in writing within 21 days from the date of notification to him of the decision.

Display of signs and licences

24.-(1) A holder of a licence for off-premises use, other than a club, or on-premises use granted in respect of any premises must ensure that there is displayed at all times a sign attached to the exterior of the premises, so as to be easily read by persons immediately outside each principal entrance, stating the ordinary hours of business during which the premises will be open for the

sale of liquor.

(2) A holder of a licence for off-premises use, other than a club, or for on-premises use must ensure that there is displayed at all times a copy of the licence, and of the conditions of the licence, attached to the interior of the premises or conveyance so as to be easily read by persons entering through each principal entrance.

(3) A club that holds a licence for off-premises use must ensure that there is displayed at all times a copy of the licence, and of the conditions of the licence, attached to the interior of the premises so as to be easily read by persons using the premises.

(4) A holder of a licence for club use must ensure that there is displayed at all times a copy of the licence, and of the conditions of the licence, attached to the interior of the premises as to be easily read by persons using the premises.

PART 4 - LICENCES FOR ON-PREMISES USE AND OFF-PREMISES USE

Applications for licences

25.-(1) An application for a licence to permit on-premises use, off-premises use or for club use must-

(a) be made in the name of the person who will hold the licence if the application is granted;

(b) be made in the prescribed form and manner;

(c) contain the prescribed particulars;

(d) be accompanied by the prescribed fees;

(e) where the application relates to any premises, be accompanied by a certificate from the local authority that the proposed use of the premises meets planning, building and public health requirements.

(2) An application in respect of any premises must be filed with the Authority for the Division in which the premises are situated.

(3) An application in respect of any conveyance for on-premises use must be filed with the Authority for the Division in which the applicant's principal place of business or registered office in the Fiji Islands is situated.

(4) Within 7 days of filing the application, the applicant must advertise his intention of applying for a licence in accordance with section 13 and the applicant must ensure that notice of the application in the approved form is attached in a conspicuous place on or adjacent to the site to

which the application relates unless the secretary of the Authority agrees that it is impracticable or unreasonable to attach such a notice.

Objections

26.-(1) Any person may object to the grant of a licence for on-premises use, off-premises use or club use.

(2) Every objection must be in writing and filed with the Authority within 21 days after the publication of the advertisement in accordance with section 13.

(3) No objection may be made in relation to any matter other than one specified in section 28 for on-premises use, section 34 for off-premises use or section 39(1) for club use.

(4) In any case where-

(a) the application relates to any premises or conveyance in respect of which a licence for the same use is currently in force;

(b) there have been no changes to the plan of the licensed premises since the licence was granted or last renewed; and

(c) the applicant seeks the same conditions as those currently applying to that licence –

an objection may be made only in relation to the suitability of the applicant.

(5) Where an objection in accordance with this section is filed with the Authority, the secretary to the Authority must notify the applicant, send a copy of every objection to the applicant and cause a notice to be published of the hearing of the application containing the prescribed particulars.

Reports

27.-(1) On receiving an application for a licence for on-premises use, off-premises use or club use the secretary to the Authority must, within the prescribed period, send a copy of the application and of each document filed with it, to the persons who may file a report, including relevant Divisional Police Commanders, relevant local or municipal authorities, the National Fire Authority, the occupational health and safety unit in the Ministry of Labour, relevant Divisional Commissioners, Roko Tuis of relevant provinces, and relevant advisory councils, addressing relevant matters in their jurisdictions, to the Authority.

(2) The secretary of the Authority must send to the applicant a copy of any reports filed with the Authority under this section.

Applications may be granted by the Divisional Liquor Licensing Authority

28.-(1) An Authority may grant an application for a liquor licence which permits on-premises use or consumption of liquor in accordance with this Act having regard to the following matters-

- (a) the suitability of the applicant;
- (b) the days on which, and the hours during which the applicant proposes to sell or supply liquor;
- (c) the areas of the premises or conveyance, if any, that the applicant proposes to designate as restricted areas or supervised areas;
- (d) the actions proposed by the applicant to ensure that the requirements of this Act in relation to the sale of liquor to prohibited persons are observed;
- (e) the applicant's proposals relating to the sale and supply of non-alcoholic refreshments and food; and
- (f) whether the applicant is engaged, or proposes to engage, in-
 - (i) the sale or supply of any other goods besides liquor and food; or
 - (ii) the provision of any services other than those directly related to the sale or supply of liquor and food,and, if so, the general nature of those other goods or services;
- (g) any matters dealt with in any report made under section 27 of this Act.

(2) For the avoidance of doubt, the allocation of quota for different categories of liquor licences is hereby abolished.

Licence which permits on-premises use

29.-(1) A licence which permits on-premises use authorises the holder of the licence to sell and supply liquor for consumption on the premises or conveyance described in the licence

(2) Any person who is not disqualified under section 16 from holding a licence may hold a licence for on-premises use.

(3) A club must not hold a licence for on-premises use.

Conditions of licences for on-premises use

30.-(1) It is a condition of every licence for on-premises use that the licensee has available for consumption on the premises or conveyance a reasonable range of non-alcoholic beverages and

refreshments.

(2) It is a condition of every licence for on-premises use granted in respect of a hotel or tavern that no liquor is to be sold or supplied outside the permitted hours set out in the Schedule for a hotel or a tavern to any person other than -

(a) a person who is for the time being living on the premises, whether as a lodger or an employee of the holder, or otherwise; or

(b) any person who is present on the premises as a *bona fide* customer for the purpose of dining.

(3) Nothing in subsection (2) affects the sale or supply of liquor pursuant to and in accordance with any licence for special use granted under Part 7 in respect of the hotel or tavern.

(4) It is a condition of every licence for on-premises use granted in respect of a private hotel that within the permitted hours for a private hotel set out in the Schedule liquor may be sold or supplied only to-

(a) *bona fide* lodgers and their *bona fide* guests; or

(b) any person who is present on the premises as a *bona fide* customer for the purpose of dining,

and outside the permitted hours, liquor may only be sold or supplied to *bona fide* lodgers of the private hotel.

(5) On granting an application for a licence for on-premises use, the Authority must designate the whole or one or more parts of the premises as restricted areas or supervised areas.

(6) It is a condition of a licence for on-premises use granted in respect of a restaurant that no liquor is to be sold or supplied outside the permitted hours set out in the Schedule.

(7) It is a condition of a Licence for on-premises use granted in respect of a nightclub set out in the Schedule that no liquor is to be sold or supplied outside the permitted hours for such a nightclub.

Types of conditions of licence for on-premises use

31.-(1) On granting an application for a licence for on-premises use, the Authority may impose conditions relating to the following matters-

(a) the days on which and the hours during which liquor may be sold;

(b) the provision of food for consumption on the premises or conveyance;

- (c) any other matter aimed at promoting the responsible consumption of alcohol;
- (d) the actions to be taken by the licensee to ensure that the provisions of this Act relating to the sale of liquor to prohibited persons are observed;
- (e) the designation of the whole or any part or part or parts of the premises or conveyance as a restricted area or supervised area.

(2) Different conditions may be imposed under subsection (1) (a) in respect of different parts of the premises or conveyance.

(3) In determining whether to impose conditions and what type of conditions to impose under subsection (1) (a) the Authority may have regard to the location of the premises in relation to neighbouring land use.

No obligation to serve

32. A licence for on-premises use does not oblige the licensee to serve or sell liquor to any person whom he has reasonable cause to believe is drunk.

Licence for off-premises use

33.-(1) A licence which permits off-premises use authorises the holder of the licence to sell or deliver liquor during permitted hours as specified in the licence on or from the premises described in the licence to any person for consumption off the premises.

(2) Any club, other than a sports club, that holds a licence for club use may sell liquor for off-premises use to members and *bona fide* guests of such members.

Criteria for approving off-premises use

34. In considering any application for a licence which permits off-premises use, the Authority must have regard to the following matters-

- (a) the suitability of the applicant;
- (b) the areas of the premises, if any, that the applicant proposes as designated restricted areas or supervised areas;
- (c) the actions proposed by the applicant to ensure that the requirements of this Act in relation to the sale of liquor to prohibited persons are observed;
- (d) whether the applicant is engaged, or proposes to engage, in -

(i) the sale or supply of any other goods besides liquor; or

(ii) the provision of any services other than those directly related to the sale or supply of liquor, -

and, if so, the general nature of those other goods or services;

(e) any matters dealt with in any report made under section 27;

(f) availability of off-premises licences in the locality.

Types of premises in respect of which licences for off-premises use may be granted.

35.-(1) A licence which permits off-premises use may be granted-

(a) to the holder of a licence for on-premises use in respect of a hotel or a tavern in respect of the business conducted pursuant to that licence;

(b) to the holder of a licence for club use subject to section 36(2);

(c) in respect of a premises in which the principal business is the manufacture or sale of liquor; or

(d) in respect of a supermarket or grocery shop including those which at the time of coming into force of this Act holds a current liquor licence known as an off-licence.

(2) Nothing in subsection (1) authorises the grant of a licence for off-premises use a service station or any other premises in which the principal business is the sale of petrol or other automotive fuels or a mechanical repair shop of any kind.

Conditions of licences for off-premises use

36.-(1) It is a condition of every licence granted for off-premises use that no liquor is to be sold or delivered on Sunday, Good Friday, or Christmas Day or outside the permitted hours set out in the Schedule.

(2) It is a condition of every licence for off-premises use granted to the holder of a licence for club use that liquor is sold or supplied pursuant to the licence for off-premises use only to members of the club.

(3) It is a condition of every licence for off-premises use granted in respect of any premises described in section 35(1) (d) that no liquor is sold pursuant to the licence other than liquor that conforms to any written law relating to pure food.

(4) In granting an application for a licence for off-premises use, the Authority may impose

conditions relating to the following matters-

- (a) the days on which and the hours during which liquor may be sold or delivered;
- (b) the designation of the whole or any part or parts of the premises as a restricted area or supervised area;
- (c) the steps to be taken by the licensee to ensure that the provisions of this Act relating to the sale of liquor to prohibited persons are observed;
- (d) the persons or types or persons to whom liquor may be sold or supplied.

(5) In determining the conditions to be imposed under subsection (4)(a), the Authority may have regard to the site of the premises in relation to neighbouring land use, and the availability of licences for off-premises use in the locality.

No obligation to serve

37. A licence for off-premises use does not oblige the licensee to sell or deliver liquor to any person whom he has reasonable cause to believe is drunk.

PART 5 - LICENCES FOR CLUB USE

Licence for club use

38.-(1) A licence for club use authorises the holder of the licence to sell and supply liquor, on the premises described in the licence, for consumption on the premises, to-

- (a) a member of the club; or
- (b) a person who is a guest of, and is accompanied by, a member of the club; or
- (c) a member of any other club with which the holder of the licence has an arrangement for reciprocal visiting rights for members of clubs.

(2) Subject to the provisions of this Act to the contrary, a licence for club use may be held by any club.

Criteria for licences for club use

39.-(1) In considering any application for a licence for club use, the Authority must have regard to the following matters-

- (a) the suitability of the applicant, including its due registration as a club under the Registration of Clubs Act;

- (b) the days on which, and the hours during which the applicant proposes to sell liquor;
- (c) the days on which and the hours during which the premises are used for the club's activities;
- (d) the areas of the premises, if any, that the applicant proposes to designate as restricted areas or supervised areas;
- (e) the proportion of the membership of the club who are prohibited persons;
- (f) the 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;
- (g) the applicant's proposals relating to the sale and supply of non-alcoholic refreshments and food; and
- (h) any matters dealt with in any report made under section 27.

(2) Before granting an application of a licence for club use, the Authority must be satisfied that the predominant purpose for which the premises are or will be used is other than the consumption of liquor.

Conditions of licences for club use

40.-(1) It is a condition of every licence for club use that-

- (a) there must at all times be a secretary of the club;
- (b) that within 10 working days of the appointment of a new secretary, the club must inform the secretary of the Authority of the name of the secretary of the club;
- (c) all proceeds from the sale of liquor belong to the club;
- (d) no liquor is sold or supplied outside the permitted hours for a club set out in the Schedule; and
- (e) the club has available for consumption on the premises a reasonable range of non-alcoholic refreshments.

(2) On granting an application for a licence for club use, the Authority may impose conditions relating to the following matters-

- (a) the days on which and the hours during which liquor may be sold;

- (b) the provision of food for consumption on the premises;
- (c) any other matter aimed at promoting the responsible consumption of liquor;
- (d) the steps to be taken by the licensee to ensure that the provisions of this Act relating to the sale of liquor to prohibited persons are observed;
- (e) the designation of the whole or any part or parts of the premises or conveyance as a restricted area or supervised area;
- (f) the persons or types of persons to whom liquor may be sold or supplied.

(3) Different licence conditions may be imposed under subsection (2) (a) in respect of different parts of the premises.

(4) In determining the conditions to be imposed under subsection (2) (a), the Authority-

(a) must have regard to the days on which the premises are being used in good faith for any of the purposes of the club, or the maintaining, upgrading, managing and administering of the club's premises and facilities; and

(b) may have regard to the site of the premises in relation to neighbouring land use.

No obligation to serve.

41. A licence for club use does not oblige the licensee to serve liquor to any person whom he has reasonable cause to believe is drunk.

PART 6 - VARIATION AND RENEWAL OF LICENCES

Variation of conditions

42.-(1) The Authority may, on an application containing the prescribed particulars made by the holder of a licence for on-premises use, off-premises use or club use, at any time vary or cancel any condition of any such licence.

(2) Within 7 days after filing the application, the applicant must advertise its application in accordance with section 13.

(3) Within 7 days after filing the application, the applicant must ensure that notice in the prescribed form is attached to a conspicuous place on or adjacent to the site to which the application relates unless the secretary of the Authority confirms in writing that it is impracticable to attach such a notice.

(4) Any interested person or group of persons may object to the grant of the application.

(5) Every objection must be in writing and filed with the Authority within 21 days of the publication of the advertisement.

(6) No objection may be made in relation to any matter other than one specified in section 28 for on-premises use, section 34 for off-premises use or section 39(1) for club use and relevant to the application.

(7) Sections 25 and 26 apply, with any necessary modifications, in respect of applications made under this section.

(8) In considering the application, the Authority must have regard to such of the matters specified in section 28, 34 or 39 as are relevant to the application.

Renewal of licences

43.-(1) The holder of a licence for on-premises use, off-premises use or club use may apply in accordance with this section for the renewal of the licence.

(2) An application for the renewal of a licence must-

(a) be filed within 3 months before the expiry of the current licence with the Authority with which the application for the licence was filed;

(b) be made in the prescribed form;

(c) contain the prescribed particulars; and

(d) be accompanied by the prescribed fee.

(3) Within 7 days after filing the application, the applicant shall advertise the application in accordance with section 13.

(4) Within 7 days after filing the application, the applicant must ensure that notice of the application in the approved form is attached in a conspicuous place on or adjacent to the site to which the application relates.

(5) The applicant is not required to ensure that notice of the application is attached in accordance with subsection (4) if the Secretary of the Authority confirms in writing that it is impracticable to attach such a notice.

Objections to renewal

44.-(1) Any interested person or group of persons may object to the renewal of a licence for on-premises use, off-premises use or club use.

(2) An objection must be in writing and filed with the Authority within 14 days after the advertisement of the making of the application.

(3) No objection may be made in relation to any matter other than one or more of those specified in section 47.

(4) Where an objection in accordance with this section is filed with the Authority, the secretary to the Authority must notify the applicant, by sending a copy of every objection to the applicant and must publish as prescribed a notice containing prescribed particulars of the hearing of the application.

Reports on applications for renewal

45.-(1) On receiving an application for renewal of a licence for on-premises use, off-premises use or club use the secretary to the Authority must send a copy of it, and of each document filed with it, to the relevant authorities who may file a report with the Authority within the prescribed period.

(2) The secretary must send to the applicant a copy of any reports filed with the Authority under this section.

Approval of unopposed applications for renewal

46. If, in respect to any application for the renewal of a licence for on-premises use, off-premises use or club use-

(a) no objection is filed within the prescribed time; and

(b) no report filed with the Authority under section 45 raises any matter in opposition to the application-

the Authority may renew the licence on the conditions currently attaching to it for a further period of up to 3 years.

Criteria for renewal

47. In respect of any application for the renewal of a licence for on-premises use, off-premises use or club use to which section 46 does not apply, the Authority must have regard to the following matters-

(a) the suitability of the licensee;

(b) prior breaches to any of the conditions attaching to the licence;

(c) the manner in which the licensee has conducted the sale and supply of liquor pursuant to the licence; and,

(d) any matters dealt with in any report made under section 45.

Decision on application for renewal

48.-(1) After considering an application for the renewal of a licence for on-premises, off-premises use or club use, the Authority must-

(a) renew the licence on the conditions currently attaching to it; or,

(b) renew the licence on such different conditions, relating to any matters specified in section 31(1) for on-premises use, section 36(4) for off-premises use and section 40(2) for club use as the Authority thinks fit; or,

(c) refuse to renew the licence.

(2) The Authority must not exercise its powers under paragraph (b) or (c) of subsection (1) except in response to-

(a) an objection made under section 44; or

(b) a report submitted under section 45; or

(c) a request by the applicant.

(3) Upon renewal, a licence shall be valid and in force for a period of up to three years, unless varied, suspended or cancelled prior to the expiry of the term of three years.

PART 7 - LICENCES FOR SPECIAL USE

Licence for special use.

49. A licence which permits special use authorises the holder of the licence to supply and sell liquor, on the premises or conveyance described in the licence, to any person attending any occasion or event or series of occasions or events described in the licence.

Licences for special use for social gatherings

50. Without limiting section 49, a licence which permits special use may be granted in accordance with this Part to the holder of a licence for on-premises use or to the holder of a licence for club use, authorizing the holder from time to time to supply and sell liquor for consumption on the premises at any time when the premises are required to be closed for the sale of liquor, to persons attending social gatherings or gatherings other than those specified in the

licence for on-premises use or for club use.

Application for licence for special use

51.-(1) An application for a licence for special use must-

- (a) be made in the name of the person who will hold the licence if the application is granted;
- (b) be made in the prescribed form;
- (c) contain the prescribed particulars; and,
- (d) be accompanied by the prescribed fee.

(2) An application for a licence in respect of any premises must be made to the Authority for the Division in which the premises are situated.

(3) An application in respect of any conveyance must be made to the Authority for the Division in which the applicant's principal place of business or registered office in the Fiji Islands is situated.

(4) Within 7 days after filing the application, the applicant must, if required to do so by the secretary of the Authority, ensure that notice of the application in the approved form is attached in a conspicuous place on or adjacent to the site to which the application relates, unless the secretary agrees that it is impracticable or unreasonable to do so.

Objections

52.-(1) If public notice of an application for a licence for special use is required to be given under section 51(4), any person or group of persons may object to the grant of such a licence.

(2) An objection must be in writing and filed with the Authority within such period after notice under section 51(4) is given, as is prescribed.

(3) No objection may be made in relation to any matter other than one specified in section 54.

(4) The secretary of the Authority must send a copy of every objection to the applicant.

Reports

53.-(1) On receiving an application for a licence for special use, the secretary of the Authority must send a copy of it, and of each document filed with it, to the relevant authorities who may, within the prescribed period, file a report with the Authority.

(2) The secretary to the Authority must send to the applicant a copy of any reports filed with the Authority under this section.

Criteria for licence for special use

54. In considering an application for a licence for special use, the Authority must have regard to-

- (a) the nature of the particular occasion or event or series of occasions or events in respect of which the licence is sought;
- (b) the suitability of the applicant;
- (c) the days on which and the hours during which the applicant proposes to sell liquor;
- (d) the areas of the premises or conveyance that the applicant proposes be designated as restricted areas or supervised areas;
- (e) the actions 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;
- (f) the applicant's proposals relating to-
 - (i) the sale and supply of non-alcoholic refreshments and food; and
 - (ii) the security arrangements for the safety of patrons and employees; and,
- (g) any reports made under section 53.

Conditions of licence for special use

55.-(1) It is a condition of every licence for special use that the licensee has available for consumption on the premises or conveyance a reasonable range of non-alcoholic refreshments.

(2) On granting an application for a licence for special use, the Authority may impose conditions relating to the following matters-

- (a) the days on which and the hours during which liquor may be sold;
- (b) the provision of food for consumption on the premises or conveyance;
- (c) the security arrangements for the safety of patrons and employees for the special use licence;
- (d) any other matter aimed at promoting the responsible consumption of liquor;

(e) the designation of the whole or part or parts of the premises or conveyance as a restricted area or a supervised area;

(f) the steps to be taken by the licensee to ensure that the provisions of this Act relating to the sale of liquor to prohibited persons are observed;

(g) the exclusion of the public;

(i) the means of selling liquor, including the containers in which liquor may be sold.

(3) In determining the conditions to be imposed under subsection 2(a) the Authority-

(a) must have regard to the days on which and the times at which persons will be participating in the occasion or event or series of occasions and events in respect of which the licence is sought, and the nature of the activities to be conducted on those occasions or during those events; and

(b) may have regard to the site of the premises in relation to neighbouring land use and, where the premises are located in a building, whether the building has an evacuation scheme for public safety.

No obligation to serve

56. A licence for special use does not oblige the licensee to serve liquor to any person whom he has reasonable cause to believe is drunk.

Duration of licence for special use

57.-(1) Subject to subsections (2) and (3), a licence which permits special use continues for the duration of time and for the hours stipulated in the licence, and-

(a) for a licence granted for one occasion or event, for the day or days on which that occasion or event occurs;

(b) for a licence granted for a series of occasions or events, for the period during which that series occurs;

(c) for a licence for special use granted under section 50, for such period not exceeding 12 months as the Authority specifies on granting the licence.

(2) If, a licence for special use is granted for one occasion or event and the occasion or event is postponed to any day not specified in the licence, the licence has effect in respect of the day on which the occasion or event is held upon the licensee notifying the Authority of the change.

(3) A licence granted in respect of a series of occasions and events shall not continue in force for longer than 12 months.

Display of licence

58. On granting a licence for special use, the Authority may give such directions relating to the display of the licence and of the conditions of the licence, as the Authority thinks necessary or desirable, and, where any such directions are given, the holder of the licence must ensure that they are complied with.

PART 8 - SUSPENSION AND CANCELLATION OF LICENCES

Variation, suspension or cancellation of licences

59.-(1) Any police officer may at any time apply to an Authority in accordance with this section for an order-

(a) varying or revoking any condition of a licence imposed by the Central Liquor Board or an Authority, or imposing any new condition (relating to any matters specified in section 31(1), section 36(4), section 40(2) or section 55(2); or

(b) suspending the licence; or

(c) cancelling the licence.

(2) Every application for an order under this section shall-

(a) be made in the prescribed form and manner;

(b) contain the prescribed particulars;

(c) be made to an Authority.

(3) The grounds on which an application for an order under this section may be made are as follows:

(a) that the licensed premises have been conducted in breach of any of the provisions of this Act or of any conditions of the licence or otherwise in an improper manner;

(b) that the conduct of the licensee is such as to show that he or she is not a suitable person to hold the licence;

(c) the licensed premises is being used in a disorderly manner so as to be obnoxious to neighbouring residents or to the public.

(4) The secretary to the Authority shall-

(a) send a copy of the application to the licensee; and

(b) fix the earliest practicable date for a public hearing of the application; and

(c) give at least 10 working days' notice of the date, time and place of the hearing to the applicant and the licensee.

(5) The applicant and the licensee shall be entitled to appear and be heard at the hearing, whether personally or by counsel, and to call, examine and cross-examine witnesses.

(6) If the Authority is satisfied that any of the grounds specified in subsection (3) is established and that it is desirable to make any order under this section, it may, by order-

(a) vary or revoke any condition of the licence imposed by the Central Liquor Board or an Authority; or

(b) impose any new condition relating to any matter specified in section 31(1), section 36(4), section 40(2) or section 55(2); or

(c) suspend the licence for such period not exceeding 6 months as the Authority thinks fit; or

(d) cancel the licence.

(7) Instead of making an order under subsection (6), the Authority may adjourn the application for such a period as it thinks fit to give the licensee an opportunity to remedy any matters that the Authority may require to be remedied within that period.

PART 9 - MINORS

Interpretation

60.-(1) In this Part-

"driving licence" means a licence to drive a motor vehicle issued under the laws of the Fiji Islands or under the laws of another country.

"responsible adult", for another person, means an adult who is a parent, step-parent, guardian, person acting in place of a parent, or carer of the other person; and could reasonably be expected to exercise responsible supervision of the other person.

(2) This Part does not apply to the possession of liquor by a person in the course of his employment or a training programme approved by an institution duly registered under the

Education Act.

Sales of liquor to minors

61.-(1) A licensee who, by himself or through any of his employees, sells or supplies liquor to any person under the age of 21 years commits an offence and is liable on conviction to a fine not exceeding \$2,000.

(2) In a proceeding for an offence under subsection (1), it is a defence if the defendant proves that when the liquor was sold or supplied, the person had shown a document of identification to the person selling or supplying the liquor.

(3) The holder of a licence, or an employee of the holder of a licence, may refuse to sell or supply liquor to a person unless the person satisfies the holder of the licence, or the employee, of his age by showing a document of identification.

(4) In this section, "document of identification", of a person means a document that-

(a) is a driving licence or passport or is issued by an educational institution or the Fiji National Provident Fund or is a prescribed document;

(b) contains a photograph that could reasonably be taken to be of the person; and

(c) indicates that the person to whom the document was issued is at least 21 years old.

False identification

62. A person who uses someone else's identification or a form of identification that is forged or fraudulently altered-

(a) to obtain entry to or remain in a bar; or

(b) to buy liquor;

commits an offence and is liable on conviction to a fine not exceeding \$500.

Minor entering licensed premises

63.-(1) A licensee either by himself or through his employee who permits a person under the age of 21 years to enter or remain in the bar of premises licensed for on-premises use, during the permitted hours for that licence unless he or she is in the care of a responsible adult, commits an offence and is liable on conviction to a fine not exceeding \$200.

(2) Nothing in subsection (1) applies to the case of any person under the age of 21 years who is in any airport refreshment room.

(3) Nothing in subsection (1) applies to a person aged between 18 and 21 years who enters or remains in a bar, if that person is an employee of the licensee or a trainee sponsored from an institution duly registered under the Education Act.

PART 10 - PROHIBITION ORDERS

Grant of prohibition orders

64.-(1) (a) If a magistrate, upon a complaint made to him, is satisfied that a person is a habitual drunkard with confirmed intemperate habits, it shall be lawful for such magistrate to declare that person as a prohibited person and to order that person not to take liquor or to have liquor in his possession for such period as shall be specified in the order.

(b) A complaint may be made to a magistrate by a police officer or any interested person, including an intended person, for a prohibition order against an intended person.

(c) At least seven days' notice of the hearing of the complaint shall be given to the intended person, except in the case of an application by the intended person himself.

(d) Where a magistrate intends to make a prohibition order against an intended person, the magistrate may direct the Chief Executive Officer for the Ministry of Health to arrange for the examination of the intended person by a psychiatric medical practitioner at Government expense.

(e) Where a magistrate has given a direction under paragraph (d), no order shall be made against an intended person under this section unless and until a magistrate has taken into account a report by, and the recommendations of, a psychiatric medical practitioner on the treatment that best suits the intended person.

(f) Where a complaint is made against an intended person other than by himself, the intended person may be represented by counsel.

(2) (a) Whenever any person is convicted by a court of any offence involving drunkenness, and upon such conviction the court is satisfied that such person has, within twelve months prior to such conviction, been convicted at least twice of offences involving drunkenness, it shall be lawful for the court to make a prohibition order.

(b) For the purposes of this subsection, two or more convictions of drunkenness arising out of the same transaction shall be regarded as a single conviction.

(3) Any liquor in the possession of a prohibited person may be seized by any police officer and thereupon shall be forfeited.

Notice of prohibition order to be given

65.-(1) Where a prohibition order has been made, the court or magistrate, as the case may be, shall cause notice thereof accompanied by a photograph of the prohibited person to be distributed as soon as may be practicably possible to every police officer in charge of a police station or police post in the Division where the prohibited person named in the order normally resides, and may cause such notice accompanied by such photograph to be distributed to every licensee in such Division.

(2) For the purposes of subsection (1), a court or magistrate may direct the prohibited person to supply such number of copies of a recent passport-size photograph of himself within 24 hours. The court may order that the cost of obtaining such photographs shall be borne by the State.

Effect of prohibition order

66. Any person against whom a prohibition order is in force found drinking liquor, or in possession of liquor, or drunk from liquor in a licensed premises or in a public place, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding \$400 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

Unlawfully supplying liquor to a prohibited person

67. Any person, whether licensed to sell liquor or not, who knowingly gives, sells, supplies or in any way procures or assists in procuring any liquor to or for a prohibited person shall be guilty of an offence and on conviction shall be liable to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.

PART 11 - EXEMPTIONS AND OFFENCES

Exemptions

68.-(1) Notwithstanding any other provision of this Act relating to licensing, it shall be lawful-

(a) for a mess or canteen established by and for members of the Fiji Police Force, the Republic of Fiji Military Forces, and the Fiji Prisons Service respectively to sell liquor to members of such disciplined Forces for consumption on or off the premises of such mess or canteen;

(b) to sell or supply liquor for consumption on the premises to any *bona fide* guest or honorary member in such mess or canteen as aforesaid;

(c) to sell liquor wholesale from any excise factory brewing, distilling or manufacturing liquor in the ordinary course of business from such excise factory to any person;

(d) to sell liquor pharmaceutically prepared as medicine to any person;

(e) to sell liquor to passengers in flight over the Fiji Islands in any aircraft registered in or outside the Islands and flying between a place in the Islands and a place outside the Islands or between two places inside the Islands;

(f) for any licensee to supply liquor for consumption on licensed premises to any private friends of such licensee, *bona fide* entertained by him at his own expense, and for such friends as aforesaid to consume such liquor on the licensed premises.

(2) Notwithstanding the provisions of this Act as to the supplying of liquor to, or the drinking of or possession of liquor by prohibited persons, it shall be lawful-

(a) for any minister of religion to give wine to any prohibited person in conformity with any religious rite, and for such person to receive and drink it;

(b) to sell or supply liquor to a prohibited person in quantities not exceeding six ounces at one time on the prescription of a registered medical practitioner, and for such person to possess and drink it.

(3) It shall not be unlawful for any responsible adult to supply liquor to a prohibited person at that person's home in reasonable quantities as not to make him drunk.

Prescription

69.-(1) A prescription given by a registered medical practitioner to a prohibited person prescribing liquor shall-

(a) be clearly written in the English language, clearly stating the medical practitioner's name and dated;

(b) prescribe the total quantity of liquor to be supplied, the state and the frequency and quantity of the doses, including the duration of the treatment; and

(c) specify the name and address of the patient.

(2) Any person who supplies liquor on a prescription shall write on the prescription the amount and kind of liquor supplied and the date of such supply and shall retain the prescription for at least six months after such supply.

Illegal sale, exposing for sale or supply of liquor

70.-(1) Subject to the provisions of this Act, a person shall be guilty of an offence who-

(a) sells or exposes for sale or exposes for supply any liquor without holding a licence authorising him to sell that liquor;

(b) being the holder of a licence, sells or exposes for sale liquor except at the place from which that liquor can be lawfully sold, shall be guilty of an offence; or

(c) being the holder of a licence, sells or exposes for sale liquor outside the permitted hours set out in the Schedule at the place from which that liquor can lawfully be sold.

(2) For the purposes of subsection (1), any liquor which is placed anywhere in any shop shall be presumed to be liquor exposed for sale unless the person concerned proves to the contrary.

(3) Any person who commits an offence under this section, shall on conviction be liable-

(a) on a first conviction, to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment;

(b) on a second conviction, to a fine not exceeding \$8,000 or to imprisonment for a term not exceeding 5 years or to both such fine and imprisonment; and

(c) on a third or subsequent conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 7 years or to both such fine and imprisonment.

(4) The court by or before which any person is convicted of an offence under paragraphs (a) or (b) of subsection (1) shall declare all liquor found in his possession and the receptacles containing it to be forfeited.

Restrictions in bar

71.-(1) A licensee of a bar shall not sell or supply liquor to or for consumption by any person if such person has already purchased a reasonable quantity of liquor which he has yet to consume.

(2) A licensee of a bar shall not sell or supply to any person more than "one drink of liquor" at a time for consumption by that person. For the purposes of this subsection, "one drink of liquor" shall, in the case of ale, beer, stout, porter or hop beer, mean a bottle, jug or glass containing not more than forty-two fluid ounces or 1-2 litres.

(3) A licensee who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine not exceeding \$500.

Preserving order in licensed premises

72.-(1) A licensee for on-premises use shall not permit drunkenness or riotous conduct to take place on the licensed premises.

(2) A licensee for on-premises use shall deny entry to the licensed premises and shall cause, with the assistance of a police officer if necessary, to be expelled from the licensed premises any person whom he has reasonable cause to believe is drunk, or who is violent, quarrelsome or

disorderly.

(3) The licensee of an on-premises use licence, his employees, or a police officer may, for the purpose of expelling a person referred to in subsection (2), use such reasonable force as may be necessary for the purpose.

(4) Every such licensee shall display in a conspicuous place where it may be conveniently read by persons on the premises a notice bearing the name of the manager of the licensed premises or, in the case of club, the Secretary of the club. As often as such notice becomes defaced, obliterated, destroyed or removed, such licensee shall forthwith cause it to be replaced.

(5) Any drunken, violent, quarrelsome or disorderly person who, upon being requested by a licensee, his employee or a police officer to leave the licensed premises, refuses or fails to do so voluntarily commits an offence and shall, on conviction, be liable to a fine not exceeding \$200 or to 6 months imprisonment or to both such fine and imprisonment.

(6) A licensee or his manager or other person engaged in the sale, supply, service or promotion of liquor and other activities on the licensed premises shall not sell liquor to a person whom he has reasonable cause to believe is drunk.

(7) If a licensee is charged under subsection (1) with permitting drunkenness, and it is proved that any person is drunk on the licensed premises, the burden of proving that the licensee and the persons employed by him took all reasonable steps for preventing drunkenness on the licensed premises, including compliance with any provision or regulations under section 78, shall lie on the licensee.

(8) A licensee who contravenes any of the provisions of this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding \$400.

Procuring drink for drunken person

73.-(1) Every person in premises licensed for on-premises use who procures or attempts to procure or aids any person whom he has reasonable cause to believe is drunk to procure intoxicating liquor for consumption by that drunken person commits an offence.

(2) A person who commits an offence under this section shall be liable on conviction to a fine not exceeding \$400.

Signs on unlicensed premises

74. Every person not holding a licence on whose premises any sign, writing, painting or other mark is exhibited which may imply or give reasonable cause for believing that such premises are licensed for the sale of liquor or that liquor is sold or supplied thereon, commits an offence and on conviction for a first offence shall be liable to a fine not exceeding \$5,000 or to imprisonment not exceeding 2 years or to both. A person convicted for a second or subsequent offence shall for

every separate conviction be liable to a fine not exceeding \$10,000 or to imprisonment not exceeding 3 years or to both.

Prostitutes on licensed premises

75.-(1) A licensee of a premises licensed for on-premises use shall not knowingly allow the licensed premises to be used as a brothel or as the habitual resort or place of meeting of reputed prostitutes whose object is to attract or solicit prostitution services:

Provided that this section shall not prohibit the licensee from allowing such persons to remain on the premises for the purposes of obtaining reasonable refreshment for such time as is necessary for that purpose.

(2) If a licensee contravenes this section, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$800.

(3) Conviction under this section may constitute grounds for suspension or cancellation of a licence under section 18.

Refusal to produce licence

76. A police officer may for just cause require a licensee to produce his, her or its licence, and any licensee who unreasonably refuses or neglects to produce such when so required commits an offence and on conviction shall be liable to a fine not exceeding \$500.

Search warrant

77. Where a police officer has reasonable grounds to believe an offence against this Act has been committed and that there is in or on any place evidence or information relating to commission of that offence, a magistrate may grant a warrant to any police officer-

(a) to enter upon and search a place; and

(b) to seize –

(i) any evidence or information reasonably suspected to relate to the commission of the offence;

(ii) any liquor and liquor container.

Responsible service

78.-(1) The Minister may make regulations requiring or encouraging the adoption of responsible practices in the sale, supply, service and promotion of liquor.

(2) In particular, the regulations may make provision for or with respect to-

(a) restricting or prohibiting the conduct of promotions or other activities, including discounting or supply of liquor free of charge, that could result in misuse or abuse of liquor, such as binge drinking or excessive consumption;

(b) the standards to be observed on licensed premises in the sale and service of liquor, for the purpose of preventing misuse or abuse of liquor;

(c) requiring licensees, managers and other persons engaged in the sale, supply, service and promotion of liquor and other activities on the licensed premises to undergo courses of training that will promote responsible practices in those activities.

(3) Without limiting subsection (2)(b), the regulations may adopt with or without modification the standards contained in an industry code of practice as standards to be observed on licensed premises in the sale, supply, service and promotion of liquor.

(4) The regulations under this section can create offences punishable by a fine not exceeding \$400.

PART 12 - MISCELLANEOUS

Presumptions

79. In any proceedings under this Act-

(a) a certificate purporting to be signed by a Government analyst specifying the nature and contents of any liquid shall be admissible evidence of the nature and contents of such liquid;

(b) where an information or charge alleges that any liquid is or may be liquor, such liquid shall be presumed to be liquor until the contrary is proved by the person or licensee with whom the liquid was found;

(c) the delivery of any liquid 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 case; and

(d) evidence that any person, other than the Licensee or his employee, consumed or intended to consume liquor on the licensed premises for off-premises use shall be *prima facie* evidence that such liquor was sold by or on behalf of the licensee to that person.

Powers of entry of police officers

80.-(1) A police officer may for the purpose of preventing or detecting the commission of any

offence against this Act at any time enter any licensed premises.

(2) If any person by himself or by any person in his employ or acting with his consent refuses or fails to admit any police officer who demands entry to licensed premises in pursuance of this section, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding \$1000.

(3) Any police officer may demand the name and address of any person found on licensed premises within any period when they are required by this Act to be closed, and, if he has reasonable grounds to suppose that the name and address is false, may require evidence of the correctness of such name and address and may, if such person fails upon such demand to give his name and address or satisfactory evidence of the correctness of such name and address, arrest him without warrant.

(4) Any person required by any such police officer to give his name and address who fails to give the same, or gives a false name and address, or makes a false statement with respect to such name and address, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding \$500.

Liquor carried about for sale to be seized and forfeited.

81.-(1) Any person, not being the holder of a licence to sell liquor, who carries about liquor for sale in any public place or in any other place other than premises or a conveyance licensed to sell liquor, commits an offence and on conviction shall be liable-

(a) on a first conviction, to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment;

(b) on a second conviction, to a fine not exceeding \$8,000 or to imprisonment for a term not exceeding 5 years or to both such fine and imprisonment; and,

(c) on a third or subsequent conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 7 years or to both such fine and imprisonment.

(2) Any police officer may seize all liquor which he may reasonably suspect to be, or to have been, carried about for sale or exposed for sale in any place by any person not holding a licence to sell the liquor, and also every receptacle containing or used for drinking or measuring the same, and any motor or other vehicle or vessel conveying the liquor and the court may order the liquor, motor or other vehicle or vessel to be forfeited.

Minister may order bars to be closed

82.-(1) It shall be lawful for the Minister whenever it may seem to him expedient to do so in the public interest, and after consultations with the Board and the relevant Authority, by order to direct that the bars of all licensed premises in any area specified in the order shall be closed on

such day or days and for such times as may be mentioned in the order.

(2) Any licensee who fails to comply with an order made under this section commits an offence and on conviction shall be liable-

(a) on a first conviction, to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment;

(b) on a second conviction, to a fine not exceeding \$8,000 or to imprisonment for a term not exceeding 5 years or to both such fine and imprisonment; and,

(c) on a third or subsequent conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 7 years or to both such fine and imprisonment.

Power to close premises during riot or civil unrest

83.-(1) When any riot or civil unrest occurs or is expected to occur in any place, the Minister, on the recommendation of a senior police officer, may order any licensed premises in or near such place to be closed during such times as he may deem fit, and any police officer acting under such order may use such force as may be necessary for giving effect to the order.

(2) Any person resisting or obstructing the execution of any such order, and any licensee failing to comply with any such order, commits an offence and on conviction shall be liable to a fine not exceeding \$2000.

Liquor in shops

84.-(1) Any person who owns, operates or manages any shop, whether licensed under the Business Licensing Act or not, if the premises are not licensed under this Act shall not store or keep or permit to be stored or kept, any liquor in any part of such shop to which the public normally have access or in any adjoining building to which the public normally have access.

(2) Any person who contravenes subsection (1) shall be presumed to be storing or keeping such liquor for the purpose of sale, and commits an offence and on conviction shall be liable-

(a) \$5,000 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment;

(b) on a second conviction, to a fine not exceeding \$8,000 or to imprisonment for a term not exceeding 5 years or to both such fine and imprisonment; and,

(c) on a third or subsequent conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 7 years or to both such fine and imprisonment.

(3) It shall be lawful for any police officer with a search warrant to enter any shop or adjoining

building at any time to search for liquor and-

(a) if any liquor is found during such search in any part of the shop or adjoining building to which the public normally have access, and in respect of which the owner, manager or operator has no satisfactory explanation; or

(b) if any liquor in excess of the personal requirements of any person owning, operating or managing such shop is found in any other part of such shop-

such quantity of liquor shall be seized and forfeited upon the conviction of any person under this section.

Regulations and rules

85.-(1) The Minister may make regulations for the better carrying out of the provisions of this Act, and rules of procedure for Authorities.

(2) In particular, and without prejudice to the generality of subsection (1), the Minister may make regulations prescribing fees to be paid and forms to be used under this Act.

(3) On the advice of a city or town council, the Minister may make regulations prohibiting the drinking of liquor in public places or in any particular public places within the boundaries of such city or town.

Notices

86. The Minister may, on the advice of the Board and by notice published in the *Gazette*, determine any prescribed period for the purposes of this Act and may vary any time limit in this Act.

Drinking in public places outside municipal boundaries

87.-(1) If representations are made to the Minister in writing by the Commissioner of Police concerning the drinking of liquor by persons in any public place outside the boundaries of a city or town, the Minister on being satisfied that drunkenness or disorder or conduct to the annoyance of the public has been frequently occurring in such public place, may by order in the *Gazette* prohibit the drinking of liquor in such public place.

(2) Any person found drinking liquor in any public place where the drinking of liquor has been prohibited under any order made under this Act shall be guilty of an offence and on conviction shall be liable to a fine not exceeding \$500.

Disposal of forfeitures

88. All goods or items forfeited under this Act shall be sold or otherwise disposed of as the court

may in its discretion direct, and the proceeds thereof shall be paid into the Consolidated Fund.

Limitation of time

89. It shall be a complete defence to any charge brought for any offence under this Act that the charge or complaint relating thereto is not filed in court within twelve months from the date or the last date, in the case of a continuing offence, on which the offence was committed.

Repeals, savings and transitional provisions

90.-(1) The Liquor Act (Cap. 192) (the repealed Act) is repealed.

(2) Section 60 of the Juveniles Act (Cap. 56) is repealed.

(3) At the commencement of this Act subsidiary legislation made pursuant to section 98(3) of the repealed Act continues in force as if made under section 85(3) of this Act.

(4) A licence in force under the repealed Act immediately before the commencement of this Act continues in force and subject to the permitted hours under this Act until its expiry date.

(5) An application for the renewal, transfer, or cancellation of any licence made on or after the commencement of this Act or commenced but not completed before the commencement of this Act is to be dealt with as if made under this Act.

(6) At the commencement of this Act, the members of the Central Liquor Board appointed under the repealed Act continue as if they had been appointed under this Act until their terms of office expire.

(7) At the commencement of this Act, the members of the Divisional Liquor Tribunals appointed under the repealed Act continue as if they had been appointed to the Authority for the same Division under this Act until their terms of office expire.

SCHEDULE

Sections 30, 36 & 40

PERMITTED HOURS

Column 1	Column 2	Column 3
Provision of the Act	Description	Permitted days and hours

On-premises use Section 30(2)	Hotel	<i>Bar</i> - from 11 a.m. to 9 p.m. Monday to Saturday, including public holidays except Good Friday and Christmas Day
		<i>Room service</i> Room service within hotel - no restriction on guests only, and at the discretion of management.
	Tavern	From 11 a.m. to 9 p.m. Monday to Saturday, including public holidays except Good Friday and Christmas Day
Section 30(4)	Private hotel	<i>Bar</i> , if any, within private hotel - from 9 a.m. to 1 a.m. daily to guests and their <i>bona fide</i> guests
		<i>Room service</i> within private hotel - no restriction on guests only, and at the discretion of management
Section 30(6)	Restaurant	11 a.m. to 2.30 p.m. and from 5 p.m. to 11 p.m. daily excluding Good Friday
Section 30(7)	Nightclub	From 5 p.m. each day until 1 a.m. the following day, from Monday to Friday, and Saturday from 5 p.m. to 12 midnight, including public holidays other than Good Friday and Christmas Day
Off-premises use Section 36		8 am to 9 pm Monday to Saturday and public holidays except Sunday, Good Friday and Christmas Day
Club use Section 40		9 a.m. to 1 a.m. the next day, every day including public holidays, except Good Friday and Christmas Day

Passed by House of Representatives on 16th February 2006.

Passed by Senate on 15th March 2006.
