

ALCOHOL CONTROL BILL 2018

SAMOA

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2018, No.

A BILL INTITULED

AN ACT to control the manufacture, sale, consumption and importation of alcohol under reformed arrangements, and for related purposes.

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

PART 1

PRELIMINARY

1. Short title and commencement:

- (1) This Act may be cited as the Alcohol Control Act 2018.
- (2) This Act commences on a date to be nominated by the Minister.

2. Objectives and application of the Act:

- (1) The objectives of this Act are to:
 - (a) regulate the sale and supply of alcohol by controlling its availability;
 - (b) reduce demand for and consumption of alcohol, and to minimise the harmful effects from the abuse of alcohol;
 - (c) regulate advertising and promotion of alcohol products, and sponsorships associated with the sale and consumption of alcohol products, and to ensure that all such activities are undertaken responsibly and in the public interest;

- (d) provide for powers of enforcement relating to the manufacture, sale, consumption and importation of alcohol to achieve the purposes of this Act;
 - (e) reduce alcohol-related problems of any nature; and
 - (f) confirm the roles and responsibilities of parents and guardians, village councils and churches in applying the regulatory controls under this Act to achieve its objectives.
- (2) This Act applies to the sale or supply of alcohol at any place or in any premises in Samoa, including at “duty free” outlets and other outlets at Samoa’s airports and sea ports.
- (3) No provision of this Act which regulates or prohibits the sale or supply of alcohol at certain times or on certain days affects the right to sell or supply alcohol at “duty free” shops, and other outlets selling alcohol to persons entering or leaving Samoa at airports and sea ports, and the times for the lawful sale and supply at such locations can be stated in the licence issued under this Act.

3. Interpretation:

In this Act unless the context otherwise requires:

“adulterated alcohol” means any alcohol:

- (a) that contains or is mixed or diluted with any substance which operates, or may operate, in any manner to the prejudice or disadvantage of the purchaser or consumer; or

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

“alcohol” includes:

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

“alcohol inspector” means an inspector appointed under section 57;

“approved form” means a form approved by the Board;

“Board” means the Alcohol Control Board established under section 4;

“Chief Executive Officer”, means the Chief Executive Officer responsible for the Ministry;

- “church” means a congregation of people exercising their right to worship at a place of worship regularly used for worship and religious activities;
- “hotel or motel” includes a resort or any other premises which offers accommodation for tourists or other temporary guests;
- “licence” means a licence issued under this Act;
- “licensed premises” means premises for which a licence to sell or supply alcohol, or to manufacture alcohol issued under this Act;
- “licensee” means a holder of a licence;
- “Minister” means the Minister responsible for Revenue;
- “Ministry” means the Ministry for Revenue;
- “minor” means a person under the age of 21 years;
- “nightclub” means licensed premises that charge patrons and customers entry fees;
- “prescribed fee” means a fee prescribed by Regulations for the purposes of this Act;
- “repealed Act” means the Liquor Act 2011;
- “Secretary” means the Secretary to the Board appointed under section 7;
- “serious offence” means an offence that is punishable by imprisonment for a period of three (3) years or more;
- “trading hours” means the hours determined by the Board under section 6(2)(g).

PART 2

AUTHORITY FOR REGULATING ALCOHOL

4. Alcohol Control Board:

- (1) The Alcohol Control Board is established and consists of the following members:

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

5. Functions of the Board:

- (1) The Board has the following functions:
- (a) apply the provisions of this Act so as to meet the objectives under section 2;
 - (b) consider and decide applications for a licence;
 - (c) consider complaints made against a licensee and a licensed premise, and any other matter relevant to the administration of this Act;

- (d) advise the Government in relation to the control of the manufacture, import, sale and consumption of alcohol in Samoa or any other matter referred to it under this Act;
 - (e) determine and apply conditions relevant to the sale and consumption of alcohol to achieve the objectives of this Act;
 - (f) determine and apply policies relevant to the importation, manufacture and sale of alcohol to achieve the objectives under section 2;
 - (g) ensure that arrangements are applied to monitor and regulate activities of licensees;
 - (h) exercise other functions provided under this Act or any other law.
- (2) It is a function of the Board to consider the issue of outlet density as part of the criteria when reviewing an application for a licence under Part 4, and to ensure that the overall social impact of the licence will not be detrimental to the well-being of the community.
- (3) The Board may request a report in the form of a community impact statement from the relevant Village Fono on any incidents in the village relating to any licences issued, to assist the Board to determine the overall social impact of the licence on the community.

6. Powers of the Board:

- (1) The Board has the power to do anything that is necessary for or incidental to the performance of its functions.
- (2) Without limiting the generality of subsection (1), the Board may:

- (a) approve the grant of a licence;
- (b) determine and apply conditions in relation to any licence which is approved to be granted, and such conditions can be prescribed as standard conditions applying to all licences or classes of licences, or to any specific licence;
- (c) take appropriate action in relation to a licence, during or prior to the consideration of a complaint made against a licensee and a licensed premise;
- (d) conduct inquiries and hearings relating to complaints brought under paragraph (c), or to any other matter determined by the Board to require investigation and determination under this Act, or to achieve the objectives under section 2;
- (e) recommend to the Government that action be taken or that controls be exercised over the manufacture, sale, consumption or importation of alcohol in Samoa;
- (f) determine the price for alcohol sold by licensees, or from licensed premises;
- (g) determine the trading hours whereby alcohol is allowed to be sold by licensees or consumed on licensed premises, and to publish such hours and to otherwise bring these to the attention of licensees;
- (h) collect, recover and account for licensing fees payable under this Act;
- (i) to review any application made under this Act to ensure that it complies with the requirements;
- (j) to require applicants for a licence under this Act to provide further information or to verify any information that has been provided;
- (k) exercise other powers vested in the Board under this Act or any other law.

- (3) The Board may make determinations that it considers necessary for the effective administration and application of this Act, including determinations in relation to any of the following matters:
- (a) whether premises are a restaurant or café for the purposes of issuing a food and beverage or bar licence;
 - (b) whether premises are a hotel or motel for the purposes of issuing a food and beverage or bar licence;
 - (c) whether premises are to be classified as a bar or nightclub;
 - (d) whether premises are located in an urban or rural area;
 - (e) whether a product is an alcohol product;
 - (f) whether an alcohol product is sold in a container or receptacle that is regulated under this Act.

7. Secretary to the Board:

The Chief Executive Officer may appoint an officer of the Ministry to be Secretary to the Board, and may make acting appointments when the circumstances require.

8. Delegation of the Board's powers:

- (1) Subject to subsection (2), the Board may delegate its powers to the Minister.
- (2) The following powers cannot be delegated by the Board and any purported delegation is void and of no legal effect:
 - (a) applications for the renewal of a licence where the licensee has breached this Act or any conditions applying to the licence during the current term of the licence;
 - (b) determinations of trading hours;

- (c) determinations to permit the sale of alcohol on Sundays;
 - (d) determinations of licence conditions that are additional to or inconsistent with conditions that have been determined by the Board to be standard conditions;
 - (e) any matter concerning a complaint made to the Board or a hearing of the Board;
 - (f) any decision to suspend or cancel a licence;
 - (g) any matter related to the breach of advertising or promotions standards, restrictions or controls.
- (3) A delegation made under this section:
 - (a) must be made in writing; and
 - (b) may be revoked at will by resolution of the Board.
 - (4) The delegation of a power under this section does not prevent the Board from exercising that function or power.
 - (5) A delegation made under this section applies to any person who subsequently lawfully holds the office of Minister, and continues in force until such delegation is revoked by resolution of the Board.

9. Meetings of the Board:

- (1) The Chairperson of the Board may call meetings of the Board as often as the Chairperson considers necessary for the efficient exercise of the functions and powers of the Board, and meetings of the Board will be held at such times and places as the Chairperson determines.
- (2) The Chairperson must preside over every meeting of the Board, or if the Chairperson is absent, the members present may elect one member to preside (“presiding member”) that meeting.

- (3) Subject to subsections (6) and (7) the quorum of a meeting of the Board is constituted by at least one-half of the members of the Board.
- (4) Matters to be decided at a meeting of the Board must be decided by a majority of votes of the members present.
- (5) The Chairperson or the presiding member has a deliberative vote and, in the event of an equality of votes, has the right to make a casting vote.
- (6) The Board has authority to determine its own procedures, and endorse any administrative arrangement whereby the consent of the Board, or any of its members, to the grant of a licence or the determination of any other matter, may be obtained by signing a circular approval, or by the use of any other similar procedure.
- (7) If a quorum has not been achieved at a meeting of the Board then the procedures authorised under subsection (6) can be used to obtain the consent of a sufficient number of members to satisfy the requirements of subsection (3).
- (8) The Secretary must take and keep minutes for every Board meeting, and must record every resolution made by the Board at its meetings or in accordance with subsection (6).

10. Hearings held by the Board:

- (1) Before a hearing by the Board is held under this Act, the Secretary must set a time, date and place for the hearing and must, within no less than five (5) working days before that date, serve a notice of the time, date and place of hearing on:

- (a) the licensee, if the matter relates to the cancellation or suspension of a licence; or
 - (b) in any other case, the applicant.
- (2) The Board may determine the procedure for conducting a hearing under this Act.
- (3) At a hearing, the Board must give all of the following an opportunity to be heard:
- (a) the applicant;
 - (b) the relevant licensee for a matter relating to the cancellation or suspension of a licence;
 - (c) any other person likely to be adversely affected by a decision of the Board on the matter.
- (4) At a hearing, the Board is not bound by the rules of evidence and may inform itself in any manner it considers appropriate.

11. Standard of proof:

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

12. Powers of the Chief Executive Officer:

- (1) The Chief Executive Officer may do all of the following:
- (a) to take action to ensure that members to the Board are appointed in accordance with section 4(1)(g) and (2);
 - (b) to give lawful directions to the Secretary to ensure that the provisions of this Act are applied and complied with;
 - (c) to appoint alcohol inspectors to enforce this Act and to give lawful directions to such inspectors to ensure compliance with this Act and any related law;

- (d) to require that inspections or inquiries be undertaken by police officers or inspectors into any matter relevant to this Act, and to receive reports of inspections in accordance with section 58(5);
 - (e) to arrange for the Board to hear and determine any matter concerning a breach of this Act which comes to the attention of the Chief Executive Officer;
 - (f) to approve forms for any purpose under this Act.
- (2) The Secretary must provide administrative support to the Board in accordance with any directions given by the Board or the Chief Executive Officer.
 - (3) The Secretary has no authority to make any determination under this Act in relation to any application or matter before the Board, and any purported decision or determination of the Secretary in breach of this restriction is void and of no effect.

13. Delegation of powers by the Chief Executive Officer:

- (1) The Chief Executive Officer may delegate powers and authority (other than this power of delegation and matters under subsection (2)) to the Secretary or another senior officer of the Ministry, to facilitate the provision of administrative support to the Board and to facilitate the administration of this Act.
- (2) The following powers cannot be delegated by the Chief Executive Officer and any purported delegation is void and of no legal effect:
 - (a) to take action to ensure that members to the Board are appointed in accordance with section 4(1)(g) and (2);
 - (b) to give lawful directions to the Secretary to ensure that the provisions of this Act are applied and complied with;

- (c) to review any application made under this Act to ensure that it complies with the requirements;
 - (d) to appoint alcohol inspectors to enforce this Act and to give lawful directions to such inspectors to ensure compliance with this Act and any related law;
 - (e) to require that inspections or inquiries be undertaken by police officers or inspectors into any matter relevant to this Act, and to receive reports of inspections in accordance with section 58(5);
 - (f) to arrange for the Board to hear and determine any matter concerning a breach of this Act which comes to the attention of the Chief Executive Officer;
 - (g) to approve forms for any purpose under this Act.
- (3) A delegation made under this section:
- (a) must be made in writing; and
 - (b) may be revoked at will by the Chief Executive Officer.
- (4) The delegation of a power under this section does not prevent the Chief Executive Officer from exercising that function or power.
- (5) A delegation made under this section applies to any person who subsequently lawfully holds the office of Secretary or other designated office within the Ministry, and continues in force until the delegation is revoked by the Chief Executive Officer.

PART 3

OFFENCES RELATING TO THE SALE AND CONSUMPTION OF ALCOHOL

14. Sale of alcohol without a licence:

- (1) A person must not sell alcohol except as authorised by a licence issued under this Act.

- (2) A person who breaches this section commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding six (6) months, or both.

15. Adulterated alcohol:

- (1) A licensee or a person must not sell adulterated alcohol.
- (2) A licensee or a person who breaches this section commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding three (3) months, or both.

16. Sale or supply of alcohol to a person under 21 years:

- (1) Subject to subsections (5) and (6), a licensee or a person must not sell or supply alcohol to a person under the age of 21 years.
- (2) A licensee or a person who breaches subsection (1) commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding six (6) months, or both.
- (3) It is a defence to a prosecution under this section that, at the time of the alleged offence, the defendant was shown lawful form of proof that the person was 21 years of age or over at the time of the sale.
- (4) A person under the age of 21 years who purchases alcohol commits an offence and is liable upon conviction to a fine not exceeding 5 penalty units.

- (5) Subject to subsection (6), a licensee is permitted to sell or supply alcohol to a person under the age of 21 years at a restaurant premises, or at any licensed premises where substantial meals are sold, if the person is under the supervision of an attending parent or legal guardian and is consuming a substantial meal at the time that alcohol is served or supplied.
- (6) A licensee to whom subsection (5) applies must not supply alcohol to a person under the age of 21 years in any of the following circumstances:
 - (a) if the person cannot provide legal proof that he or she is 18 years of age or more;
 - (b) if none of the adults present with the person are able to provide legal proof that they are the parent or legal guardian of the person;
 - (c) if the person's parent or legal guardian taking responsibility for the person appears to be intoxicated;
 - (d) if the person being served appears to be intoxicated, as indicated by the matters referred to in section 18(2);
 - (e) if the person being served is not consuming a substantial meal at the time that alcohol is supplied;
 - (f) if the parent or legal guardian taking responsibility for the person is behaving in any manner which suggests that he or she is not acting responsibly in relation to the consumption of alcohol by the person;
 - (g) if the quantity or type of alcohol requested by or for the person is not consistent with responsible drinking behaviour by the person.
- (7) A person who sends or allows a person under 21 years of age to purchase or collect alcohol commits an offence and is liable upon conviction to a fine not exceeding 25 penalty units or to imprisonment for a term not exceeding three (3) months, or both.

17. Proof of age to be required:

- (1) A licensee must require that a person who appears to be under the age of 21 years and who wishes to purchase alcohol produce a valid form of identification to prove the age of the person and the person's lawful entitlement to make the purchase.
- (2) A licensee must require that a person who appears to be under the age of 21 years and who wishes to enter or remain on licensed premises for the purpose of purchasing alcohol produce a valid form of identification to prove the age of the person and the person's lawful entitlement to enter or remain on the premises and to make the purchase.
- (3) A licensee who permits a person who is under 21 years of age to purchase alcohol, or to enter or remain on licensed premises for the purpose of purchasing alcohol, without having inspected a valid form of identification commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding three (3) months, or both.
- (4) For the purposes of this section a valid form of identification includes a valid and current passport, a driver's licence, an official student identification card or any other form of identification approved by the Board.
- (5) A person who uses any document to falsely represent his or her age when required to produce identification under this section commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding three (3) months, or both.

- (6) A licensee who believes that any identification produced by a person required under this section is false or has been tampered with to provide false details relating to the person producing it, must confiscate that document and provide it to a police officer as soon as practicable.
- (7) Subsection (6) does not authorise the confiscation of a passport which appears to be a valid and current passport, but when such a document is used by a person required to provide a valid form of identification the licensee must deny entry to the person, or refuse sale of alcohol to that person, and has authority to take details related to the person and report the matter to a police officer.
- (8) A licensee who confiscates a document which he or she believes to be false in any particular, or who reports the matter to the police, is not subject to any criminal or civil liability in relation to the action that the licensee has taken to comply with this section.

18. Sale or supply of alcohol to intoxicated persons:

- (1) A licensee must not sell alcohol to a person reasonably believed to be intoxicated or who is behaving in a manner which suggests that he or she is intoxicated.
- (2) A person is reasonably believed to be intoxicated if it appears that the person's speech, balance, coordination or behaviour is negatively affected by the consumption of alcohol.
- (3) A licensee who breaches this section commits an offence and is liable upon conviction to a fine not exceeding 25 penalty units or to imprisonment for a term not exceeding three (3) months, or both.

19. Consumption of alcohol in certain places:

- (1) A person who, without lawful excuse:
- (a) consumes alcohol in a public place or any prescribed place;
 - or
 - (b) possesses an open container of alcohol in a public place or any prescribed place,
- commits an offence and is liable upon conviction to a fine not exceeding 25 penalty units or to imprisonment for a term not exceeding three (3) months, or both.
- (2) Subsection (2) does not apply to the consumption or possession of alcohol on premises which are licensed under this Act, or at a time and place authorised by a temporary licence.
- (3) In this section:
- “public place” includes the following, other than during the course of an official function lawfully held at that place:
- (a) a road, street, footpath, alley, sea wall or any thoroughfare of a public nature;
 - (b) a vehicle on a public road;
 - (c) a passenger carrying vessel;
 - (d) a village malae;
 - (e) any other place prescribed by regulations to be a public place for the purposes of this section.
- “prescribed place” means all of the following:
- (a) a place, not being residential premises, that -
 - (i) is within 50 metres of a church;
 - (ii) is within 50 metres of a licensed premises; or
 - (iii) is prescribed by regulations to be a prescribed place for the purposes of this section;

- (b) a market place, wharf or jetty accessible by the public;
- (c) a hospital;
- (d) a school.

20. Minors on licensed premises:

- (1) Subject to subsection (2), a person under the age of 21 years must not be employed or permitted to work on a licensed premises with a food and beverage, bar or nightclub licence.
- (2) A person who is or over the age of 18 years may work on a licensed premises with a food and beverage, bar or nightclub licence for any of the following purposes:
 - (a) to prepare or serve meals;
 - (b) to undertake duties involving cleaning, maintenance and stock management, or to effect repairs or alterations to any equipment or thing;
 - (c) to check or remove cash;
 - (d) to undergo hospitality training endorsed or sponsored by an education institution duly recognised by the Board;
 - (e) to sell or supply alcohol, if he or she is supervised by a person over the age of 21 years.

**PART 4
LICENCES**

21. Classes of licences:

- (1) Applications may be made to the Board in accordance with the requirements of this Part for the following categories of licences:
 - (a) wholesale licence;
 - (b) retail sale licence;
 - (c) food and beverage licence;

- (d) bar licence;
 - (e) nightclub licence;
 - (f) temporary licence;
 - (g) licence to manufacture alcohol, subject to Part 7;
 - (h) licence to import alcohol, subject to Part 8.
- (2) An applicant may apply for a food and beverage licence, a bar licence or a nightclub licence to sell or supply alcohol for consumption on the licensed premises.
 - (3) The Board may apply different conditions in relation to the different types of premises for which a food and beverage licence, a bar licence or a nightclub licence may be granted.
 - (4) An applicant may apply for a wholesale licence or a retail sale licence to sell or supply alcohol in sealed containers for consumption at any place other than on the licensed premises, and such a licence is required for the wholesale or retail supply of alcohol in stores and supermarkets.

22. Requirements for licence applications:

- (1) An application for a licence under section 21 must be addressed to the Secretary, be accompanied by the prescribed fee and must be in the form approved for that purpose by the Board, which must include details of the following matters:
 - (a) the name and address of the applicant;
 - (b) a valid business licence except where the application is for a temporary licence under Part 5;
 - (c) the suitability of the applicant, including evidence of the good character of the applicant;

- (d) the suitability of the persons who will have responsibility for managing the premises at which alcohol is to be sold or supplied, including evidence of the good character of such persons;
 - (e) the number, location and type of licensed premises already operating within the locality of the proposed premises;
 - (f) information to justify that it is appropriate to issue the licence for the premises in the proposed location;
 - (g) the days and hours during which the applicant proposes to sell and supply alcohol, which must be consistent with the permissible trading hours;
 - (h) previous convictions of the applicant and any person involved with the management of the premises;
 - (i) proof of the consent of the Village Fono of the village where the proposed premises will be located, and of compliance with any by-laws of the relevant village;
 - (j) the design and layout of the premises;
 - (k) details of the applicants control systems, staff and training to ensure on-going compliance with this Act and all other applicable laws.
- (2) If an applicant for a food and beverage licence or a bar licence, intends to sell or supply alcohol on a Sunday or any other day on which sales are restricted or prohibited under this Act, the application must specifically indicate that such approval is sought, and must provide details of all of the following matters:
- (a) security measures which are proposed to minimise any problems that could arise from the sale or supply;

- (b) noise control measures and other steps to minimise and control any nuisance;
 - (c) appropriate staff training programs and measures to minimise adverse consequences from the sale and supply.
- (3) In addition to the requirements stated in subsection (1) an application for a food and beverage, bar and nightclub licence must provide details to verify compliance with all of the following matters:
 - (a) building and fire safety standards;
 - (b) public health and sanitation requirements;
 - (c) any other statutory requirement applicable to the premises.
- (4) An approval granted for the sale or supply of alcohol on a Sunday for a licensee who has been granted a food and beverage or bar licence can only sell or supply alcohol to guests of their hotels, motels or accommodations.
- (5) If information provided by an applicant under this section is false, misleading or deceptive in any particular, or if any document provided by the applicant under this section is not genuine, or is false or misleading, the applicant commits an offence and is liable upon conviction to a fine not exceeding 200 penalty units or to imprisonment for a term not exceeding six (6) months, or both, and if the applicant has been issued a licence, the licence is automatically cancelled.

23. Secretary may require further information:

- (1) The Secretary may, by notice in writing, require an applicant for a licence, to do any of the following:
 - (a) to provide information (including financial and other confidential information) verified by statutory declaration, relating to any matter concerning the application;
 - (b) to produce records that are relevant to any matter relating to the application;
 - (c) to provide evidence of authorisations, certificates, approvals or consents relevant to any matter concerning the application.
- (2) The Board may do the following:
 - (a) to defer the consideration of an application and direct the Secretary to take action under subsection (1);
 - (b) to decline to consider an application for a licence until a requirement under this section is complied with;
 - (c) to reject an application for a licence if a requirement under this section is not complied with.

24. Matters to be considered in relation to licence applications:

- (1) When considering an application for a licence under this Part, the Board must consider all of the following matters:
 - (a) whether the applicant and any person proposed to have management roles are fit and proper persons, including consideration of any criminal convictions applying to any of them;
 - (b) whether it is appropriate to grant the licence for premises in the area to which the application relates, taking account of the number of licensed premises in the area, the views expressed by community representatives and churches in the area, and any other relevant matter;

- (c) whether the premises to which the application relates are fit and proper premises for the purpose of the licence, and that compliance with all relevant laws and regulatory compliance have been established by the applicant;
 - (d) the applicant and any person nominated by the applicant as having a role in the management of the premises understand the obligations of a licensee and the objectives of this Act;
 - (e) whether the applicant has previously breached a provision of this Act, any law which has previously regulated the sale and consumption of alcohol, and any other relevant law;
 - (f) where applicable, the consent of the Village Fono of the village where the premises to which the application relates are to be situated;
 - (g) the design and layout of the premises;
 - (h) the applicant's proposed compliance systems, the managers and other staff proposed for the premises, and the provision of appropriate training for the staff;
 - (i) any objection to the application;
 - (j) the public interest taking account of any report submitted to or sought by the Board.
- (2) A licence must not be granted to permit the operation of a nightclub or bar within 100 metres of a school or church, and any licence purporting to permit a bar or nightclub to be operated in such an area is void and of no legal effect.
- (3) A food and beverage or temporary licence must not be granted for premises within 50 metres of a church unless appropriate conditions are applied to the licence to take account of its location, including measure to control noise and the provision of security.

- (4) Subsections (2) and (3) does not apply to premises which were licensed prior to the time that the church was established in proximity to the licensed premises.

25. Granting or refusing a licence:

- (1) The Board may grant or refuse the issuing of a licence under this Part after considering all of the following:
 - (a) the matters under section 24;
 - (b) any objection made in relation to the application;
 - (c) any response by the applicant to an objection.
- (2) When granting a licence the Board must determine all of the following matters:
 - (a) the premises or location at which alcohol can be sold or supplied under the licence;
 - (b) the categorisation of the premises as a restaurant, hotel or motel, or as a bar or nightclub, and the conditions that apply under this Act accordingly;
 - (c) the trading hours;
 - (d) the closing time for the premises;
 - (e) other conditions applying to the operation and management of the licensed premises, and to the sale and supply of alcohol at the premises, which must be consistent with section 26.
- (3) The Secretary has responsibility for issuing a licence that is granted by the Board or for notifying an applicant of a decision by the Board to refuse an application.
- (4) All matters approved by the Board under subsection (1) must be stated in the licence, and any particulars stated in a licence which is inconsistent with the decision of the Board is void and of no legal effect.

26. Licence conditions:

- (1) The Board may impose conditions not inconsistent with this Act to which a wholesale licence, a retail sale licence, a food and beverage licence, a bar licence, a nightclub licence, or a temporary licence is to be subject.
- (2) A wholesale licence, retail sale licence, food and beverage licence, bar licence, nightclub licence, and a temporary licence is subject to any conditions imposed under subsection (1), whether or not any such condition is endorsed on the licence.
- (3) Except as approved by the Board, the sale of alcohol on Sunday is prohibited and is accordingly a condition of a wholesale licence, a retail sale licence, a food and beverage licence, a bar licence, a nightclub licence, and a temporary licence.
- (4) The Board has authority to impose other conditions to any licence issued under this Part, either at the time the licence is granted or at any time that the licence is current, and such conditions may apply a requirement related to any of the following purposes:
 - (a) to achieve the objectives of this Act;
 - (b) to apply and enforce any approved government policy or direction of Cabinet;
 - (c) to reduce or remove disruption or inconvenience to surrounding residents or businesses;
 - (d) to otherwise facilitate the application and enforcement of this Act.
- (5) The Board has authority to vary or revoke a condition of a licence at any time and for any reason, other than a condition which applies to the licence under a provision of this Act.

- (6) The Secretary must provide a written notice to any licensee whose licence conditions have been varied or revoked, and give particulars of the modifications made by the Board.
- (7) If a modified condition is to apply generally to all licences, or to a specific class of licence, the Secretary has authority to give public notification of the modified conditions by appropriate public advertisement.
- (8) Modified conditions apply from the time that notice is served on a licensee under subsection (6), or from the date specified in the public advertisement made under subsection (7).

27. Duration of a licence:

A licence which is granted under section 25 commences on the date specified on the licence or in the absence of such date, on the day that it is issued and unless renewed, extended, suspended or revoked, remains in force until 31 December in the year of its issue.

28. Renewal of a licence:

- (1) An application for the renewal of a licence granted under section 25 must:
 - (a) be lodged with the Secretary at least one (1) month before the expiration of the licence;
 - (b) be made in the approved form; and
 - (c) accompany by the prescribed fee.
- (2) If a licensee has committed any breach of this Act or of any condition applying to the licence, or if any complaint has been made relevant to the licence prior to a renewal, the Board must consider all matters prior to the grant or renewal of the licence.

- (3) Without limiting the matters to be considered by the Board under subsection (2), a licensee must provide a report from the police and from the relevant Village Fono in support of the renewal of the application if there has been a previous breach or a complaint.
- (4) Despite subsection (1)(a), the Secretary and the Board may accept an application for renewal of a licence at a time after its expiration upon payment of a late lodgement fee.

29. Transfer of a licence:

- (1) A licensee must not transfer a licence issued under this Act except with the prior written approval of the Board.
- (2) A licensee seeking approval of the Board under this section must make an application in the approved form and pay the prescribed fee.
- (3) The Board may attach conditions to an approval given under this section.
- (4) A licensee who breaches subsection (1) commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding three (3) months, or both.

30. Alteration and relocation of licensed premises:

- (1) A licence issued under this Part does not apply to new or relocated premises of the licensee.
- (2) If a licensee physically alters the structure of the licensed premises and the alteration does not comply with the current licence conditions, the licence is deemed to be void.

- (3) A new licence must be applied for under this Part before the licensee can continue to sell or supply alcohol at new premises, or at premises to which subsection (2) applies.
- (4) A licensee who alters the physical structure of the licensed premises and who fails to comply with this section, commits an offence and is liable upon conviction to a fine not exceeding 10 penalty units.
- (5) The licensee who relocates licensed premises in breach of this section and who sells alcohol at such premises commits an offence and is liable upon conviction to a fine not exceeding 10 penalty units.

PART 5

TEMPORARY LICENCES

31. Rights conferred by temporary licences:

- (1) A temporary licence authorises the sale and supply of alcohol at premises or places which are not licensed under Part 4.
- (2) A person who organises a commercial or fund-raising event at premises or places which are not licensed under Part 4 and at which alcohol is to be served or supplied, must apply for and obtain a temporary licence under this Part.
- (3) A temporary licence issued under this Part authorises the licensee to sell alcohol during limited times set out in the licence, and authorises the consumption of alcohol in areas and at places specified in the licence.

32. Applications for a temporary licence:

- (1) An application for a temporary licence must be made to the Board in the approved form and must be accompanied by the prescribed fee.
- (2) An application for a temporary licence must provide particulars of the following matters:
 - (a) the persons who are responsible for organising and managing the event, and who will assume responsibility for complying with all legal requirements applicable to the licence;
 - (b) the nature and purpose of the event;
 - (c) the days and times at which alcohol is proposed to be sold or supplied under the licence;
 - (d) details of the food and beverages to be available at the event;
 - (e) the design, layout and location of the premises or places at which the event is to be held;
 - (f) the consent of the relevant Village Fono, if the premises are in or in the vicinity of the village.

33. Criteria for the grant of a temporary licence:

When considering an application for a temporary licence, the Board must take into account the following matters:

- (a) the suitability of the nominated persons who will be responsible for the management of the event and who will assume responsibility for legal compliance under the licence;
- (b) the nature and purpose of the event;
- (c) the impact of the event on the surrounding residents and businesses;
- (d) the days and times proposed for the sale and supply of alcohol under the licence;
- (e) the consent of the owners of the premises to the holding of the event, and the suitability of the premises or place where the event is to be held;

- (f) the consent or opposition of the community in the vicinity of the event;
- (g) measures to be taken to ensure that adequate security are provided for the event, and for the enforcement of this Act in relation to persons attending the event;
- (h) measures to be taken to ensure that alcohol will not be sold or supplied to persons who are under the age of 21 years;
- (i) any other matter that the Board considers necessary to enforce this Act and to achieve the objectives of this Act.

34. Granting or refusing a temporary licence:

- (1) The Board may grant, or refuse the issuing of a temporary licence after considering the matters under section 33.
- (2) When granting a temporary licence the Board must determine all of the following matters:
 - (a) the premises or location at which alcohol can be sold or supplied under the licence;
 - (b) the trading hours for which alcohol can be sold or supplied under the licence;
 - (c) the closing time for the premises;
 - (d) other conditions applying to the temporary licence, and to the sale and supply of alcohol at the approved premises or place.
- (3) The Secretary has responsibility for issuing a temporary licence that is granted by the Board and for notifying an applicant of a decision by the Board to refuse an application.
- (4) All matters approved by the Board under subsection (1) must be stated in the temporary licence, and any particular matter stated in a licence which is not consistent with the decision of the Board is void and of no legal effect.

PART 6
PERMITTED TIMES FOR THE SALE OF ALCOHOL

35. Days when sale of alcohol is not permitted:

- (1) Subject to subsection (2), alcohol must not be sold at any licensed premises on Sundays.
- (2) Subsection (1) does not apply to a licensed premise if all of the following apply to the licence:
 - (a) the licensed premises are used as a restaurant or café, or as a hotel or motel;
 - (b) food and non-alcoholic beverages are available for sale at the licensed premises when alcohol is sold or supplied on a Sunday;
 - (c) the application for the licence sought approval for the sale and supply of alcohol on Sundays in accordance with section 22(2);
 - (d) the Board has approved conditions for the licence which permits the sale and supply of alcohol on Sundays;
 - (e) the conditions stated in subsection (3) are complied with when alcohol is sold or supplied on a Sunday.
- (3) The following conditions apply to a licence which permits the sale and supply of alcohol on Sundays:
 - (a) the sale and supply of alcohol is restricted to time approved by the Board;
 - (b) if the licensed premise is a restaurant or café, alcohol must be sold or supplied with a meal;

- (c) if the licensed premise is a hotel or motel, alcohol can only be sold or supplied to registered guests or to persons who are visiting guests at the premises;
 - (d) measures must be taken to keep noise to reasonable levels;
 - (e) alcohol must be consumed on the premises only, and no alcohol is to be allowed to be taken from the premises.
- (4) The breach of any condition under subsection (3) is grounds upon which the Board may suspend or revoke the right to sell or supply alcohol on a Sunday, or to suspend or cancel a licence.
 - (5) A licensee of any premises where alcohol is sold or supplied in breach of this section commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding six (6) months, or both.
 - (6) A person, other than a licensee, who offers or permits alcohol to be sold or supplied on licensed premises in breach of this section commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding three (3) months, or both.

PART 7

LICENCES TO MANUFACTURE ALCOHOL

36. Controls over the manufacture of alcohol:

- (1) A person may only manufacture alcohol if the person holds a licence to manufacturer alcohol (“manufacturer’s licence”) under this Part.

- (2) A person who breaches subsection (1) commits an offence and is liable upon conviction to a fine not exceeding 500 penalty units or to imprisonment for a term not exceeding six (6) months, or both.
- (3) A person who is convicted for a second offence under subsection (1) is liable upon conviction to a fine not exceeding 1000 penalty units or to imprisonment for a term not exceeding 12 months, or both.

37. Application for a manufacturer's licence:

- (1) An application for a manufacturer's licence must:
 - (a) be addressed to the Secretary;
 - (b) be in the approved form; and
 - (c) be accompanied by the prescribed fee.
- (2) An application under subsection (1) must provide or be accompanied by all of the following:
 - (a) all information prescribed or determined by the Board as being required in relation to the applications;
 - (b) any other information that the Secretary or the Board requires;
 - (c) a report from the Ministry responsible for health confirming that the premises, products and processes are suitable to be licensed under this Part;
 - (d) details of the methods and formula to be used by the manufacturer for the production of alcohol, and confirmation from an appropriate agency or scientific organisation that the methods and formula are adequate and appropriate;
 - (e) the qualifications of the persons to be employed by the manufacturer to administer and manage the processes for the production of alcohol.

- (3) If, before an application for a licence to manufacture alcohol is considered and determined, a change occurs in the information provided in or in connection with the application, the applicant must give the Secretary a notice in writing specifying particulars of the change.

38. Criteria for granting a manufacturer's licence:

The Board must be satisfied that the applicant meets all of the following requirements when granting a manufacturer's licence under this Part:

- (a) that the applicant is a fit and proper person to hold the licence;
- (b) that it is in the public interest to grant the licence;
- (c) that the applicant has never been convicted of a serious offence;
- (d) that the proposed premises, products and processes (including the methods and formulae for the production of alcohol) are safe and appropriate, and are in accordance with prescribed standards;
- (e) that the persons who are responsible for the manufacture of alcohol have qualifications and experience.

39. Standards for the manufacture of alcohol:

- (1) Regulations made under this Act may prescribe minimum standards applicable to any matter associated with the manufacture of alcohol.
- (2) Any prescribed standard is taken to be a condition applicable to any current licence issued under this Part.

40. Grant of a manufacturer's licence and its duration:

- (1) After considering the matters under section 38 and any prescribed standards under section 39, the Board may grant or refuse to issue a licence to manufacture alcohol on the premises specified in the licence.
- (2) A manufacturers' licence granted under this section commences on the day that it is issued and unless renewed, suspended or revoked, remains in force until the 31 December in the year of its issue.

41. Renewal of a manufacturer's licence:

- (1) A licensee must apply for renewal of the manufacturer's licence at least one (1) month before the expiration of the licence and must:
 - (a) be lodged with the Secretary;
 - (b) be made in the approved form;
 - (c) be accompanied by the prescribed fee.
- (2) The Board must consider all relevant matters prior to the grant of a renewal of a licence under this section.
- (3) Without limiting the matters to be considered by the Board under subsection (2), the Board must consider and determine whether a licensee has committed any breach of this Act or of any condition applying to the licence, or if any complaint has been made relevant to the licence within the period prior to a renewal.
- (4) Despite subsection (1), the Secretary and the Board may accept an application for renewal of a licence at a time after its expiration, upon payment of a late lodgement fee.

42. Conditions for a manufacturer's licence:

- (1) A manufacturer's licence granted under this Part is subject to the following:
 - (a) conditions imposed by the Board not inconsistent with this Act, whether or not the conditions are endorsed on the licence; and
 - (b) any other prescribed conditions.
- (2) Without limiting this section, a condition may be imposed by the Board to do both of the following:
 - (a) to set the prescribed limits of alcohol content for alcohol that is manufactured;
 - (b) to set restrictions on how alcohol is to be manufactured.
- (3) The Board may apply additional conditions during the currency of a licence, and to vary or revoke a condition of a manufacturers' licence granted under this Part.

43. Breach of conditions for a licence to manufacture alcohol:

A licensee under this Part who, without lawful excuse, breaches any condition of the licence commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding six (6) months, or both.

PART 8**IMPORT OF ALCOHOL****44. Import of alcohol:**

- (1) Subject to subsection (2), a person who imports alcohol without a licence authorising the importation issued under this Part commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding six (6) months, or both.

- (2) Subsection (1) does not apply to a person of or over the age of 21 years who enters Samoa and brings as part of his or her personal luggage three (3) bottles of alcohol containing not more than 3375ml in total.
- (3) The Minister, with the approval of Cabinet and at the cost of the Ministry responsible for finance, has authority to purchase and import into Samoa alcohol of a type and for a purpose approved by Cabinet.
- (4) The Minister may delegate the power under subsection (3) to the Chief Executive Officer.

45. Applications for a licence to import alcohol:

- (1) An application for a licence to import alcohol must be addressed to the Secretary, be in the approved form and be accompanied by the prescribed fee.
- (2) An application under subsection (1) must provide or be accompanied by all of the following:
 - (a) all information prescribed or determined by the Board as being required in relation to such applications;
 - (b) reports from the Police Service and from the Excise Division of the Ministry responsible for Customs in relation to the application and proposed arrangements for the import of alcohol;
 - (c) any other information that the Secretary or the Board requires.

46. Granting a licence:

- (1) The Board must consider the following in determining whether or not to grant a licence to import alcohol:

- (a) whether the person is fit and proper to hold the licence;
 - (b) whether it is in the public interest to grant the licence.
- (2) Subject to subsection (3), after considering the matters referred to in subsection (1), the Board may approve the grant of a licence to import alcohol.
 - (3) The Board must not grant a licence to import alcohol to an applicant who has been convicted of a serious offence, or if a report provided by the Police Service or the Excise Division of the Ministry responsible for Customs recommends that the licence not be granted on any grounds.
 - (4) A licence granted under this section commences on the day that it is issued and unless renewed, suspended or revoked, remains in force until 31 December in the year of its issue.

47. Conditions for a licence to import alcohol:

- (1) A licence to import alcohol is subject to any conditions imposed by the Board (whether or not such conditions are endorsed on the licence), and to any other prescribed conditions.
- (2) Without limiting this section, the Board may impose a condition to prescribe limits on the alcohol that may be imported, or to impose restrictions on how alcohol may be imported.
- (3) The Board may vary or revoke a condition of a licence to import alcohol granted under this Part.

48. Renewal of licence to import alcohol:

- (1) A licensee under this Part must apply for the renewal of the licence at least one (1) month before the expiration of the licence and:
 - (a) must be lodged with the Secretary;
 - (b) must be made in the approved form;
 - (c) accompany by the prescribed fee.
- (2) The Board must consider all relevant matters prior to the grant of a renewal of a licence under this section.
- (3) Without limiting the matters to be considered by the Board under subsection (2), the Board must consider and determine whether a licensee has committed any breach of this Act or of any condition applying to the licence, or if any complaint has been made relevant to the licence within the period prior to a renewal.
- (4) Despite subsection (1), the Secretary and the Board may accept an application for renewal of a licence at a time after its expiration, upon payment of a late lodgement fee.

49. Breach of conditions for a licence to import alcohol:

A licensee under this Part who, without lawful excuse, breaches a condition of the licence commits an offence and is liable to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding six (6) months, or both.

PART 9**OTHER CONTROLS OVER THE SALE
AND SUPPLY OF ALCOHOL****50. Restriction on types of alcohol products:**

- (1) Regulations may be made under this Act to prescribe the following:

- (a) prohibit or restrict the sale or supply of prescribed types of alcohol products;
 - (b) prohibit or restrict the sale of alcohol in specified containers;
 - (c) prohibit or restrict the sale of alcohol as specified strengths and concentrations.
- (2) A prohibition or restriction imposed by Regulations made under this section can be applied to a class of licence or to a type of licensed premises, and can be based on location or any other consideration.
- (3) Nothing in this section prevents the Board from imposing controls on the sale of alcohol products by the application of licence conditions, or a Village Fono from applying by-laws which are consistent with the grounds stated in subsection (4).
- (4) The grounds upon which a prohibition or restriction can be imposed under this section include, but are not limited to, any of the following matters:
- (a) adverse impacts to the health or safety of persons consuming the products;
 - (b) ensuring that products are not targeted at minors, or produced or marketed in a manner which might appeal to minors and induce them to consume the product;
 - (c) to avoid the promotion or encouragement of irresponsible or excessive consumption of alcohol.

51. Labelling requirements for alcohol products:

- (1) The following requirements apply to the labelling of alcohol products which are sold by retailers or wholesalers in containers or receptacles:

- (a) an alcoholic beverage which contains more than 1.15% alcohol by volume (ABV) must include on the label a statement of the alcohol content;
 - (b) the statement required under paragraph (a) must indicate the volume of alcohol in the alcoholic beverage as a proportion of the alcoholic beverage;
 - (c) alcoholic beverages must include on the label a statement of the number of standard drinks in the package;
 - (d) a health message to the effect that 'alcohol abuse is dangerous for health'.
- (2) For the purposes of subsection (1)(c) "a standard drink" is the amount of a beverage that contains 10 grams of alcohol at 20 degrees Celsius.
- (3) Regulations made under this Act may prescribe additional labelling requirements for alcohol sold or supplied in Samoa.
- (4) A manufacturer of an alcohol product in Samoa which is to be sold to the public in a container or receptacle which does not comply with the requirements of this section commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding six (6) months, or both.
- (5) A person who sells or supplies an alcohol product in Samoa which is to be sold to the public in a container or receptacle which does not comply with the requirements of this section commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding three (3) months, or both.

52. Controls over the advertising and promotion of alcohol:

- (1) Regulations may be made under this Act to regulate the advertising and promotion of alcohol by any means.
- (2) Without limiting subsection (1), regulations may be made for any of the following purposes:
 - (a) to prescribe types and means of advertising or promotion of alcohol which are prohibited or restricted;
 - (b) to prescribe places where the advertising or promotion of alcohol is prohibited or restricted;
 - (c) to protect minors from exposure to and the effects of advertising or promoting of alcohol;
 - (d) prohibiting the use of minors to promote the sale or consumption of alcohol;
 - (e) controlling the content of advertisements and promotions related to the sale or consumption of alcohol;
 - (f) requiring health messages to be featured or included in any advertisement or promotion of alcohol;
 - (g) empowering the Board to regulate the advertising and promotion of alcohol, including powers to require the alteration or withdrawal of such advertisements or promotions;
 - (h) to impose approved standards applicable to advertising and promoting alcohol, and to prescribe measures for enforcing the approved standards;
 - (i) prescribing functions and powers of the Board to hear and determine complaints about advertisement and promotion of alcohol;

- (j) to prescribe offences relevant to advertising and promoting alcohol, and to impose penalties being fines not exceeding 200 penalty units, and imprisonment for terms not exceeding 12 months, or both.
- (3) The Board has the following functions and powers relevant to the advertising and promotion of alcohol:
- (a) to apply and enforce Regulations made under subsection (2) and approved standards relating to the advertising and promotion of alcohol;
 - (b) to hear and determine complaints about breaches of the Regulations and approved standards;
 - (c) to direct that advertisements or promotions relating to alcohol be withdrawn, discontinued or modified, and that appropriate notice be published to diminish the adverse effects of such advertisements or promotions;
 - (d) to approve proposed advertisement and promotions that are submitted to the Board for endorsement prior to them being commenced and undertaken.

PART 10

HEARINGS BY THE BOARD

53. Maintaining peace and good order:

- (1) The Board may conduct a hearing in relation to a complaint made to it in writing of undue disturbance to the peace and good order of the neighbourhood in which the licensed premises is located if the complaint relates to any of the following:
- (a) an alleged breach of this Act or of conditions applicable to a licence;

- (b) the manner in which the licensed premises are operated or managed;
 - (c) the behaviour of persons within or near the licensed premises;
 - (d) any other matter the Board determines to warrant a hearing.
- (2) A complaint to be heard under subsection (1) can relate to more than one (1) licensed premises, and the hearing can be extended to include any other licensed premises if the Board considers it appropriate.

54. Hearings in relation to complaints:

- (1) Notice of the time and place for a hearing under this Part must be given to all complainants and the licensees affected by the complaint.
- (2) After giving each complainant and licensee a reasonable opportunity to be heard in relation to the complaint, the Board may do any of the following:
 - (a) to vary or revoke the conditions of the licence;
 - (b) to suspend the licence for a specified period in accordance with this Part;
 - (c) to cancel the licence in accordance with this Part;
 - (d) to issue a reprimand and warning in writing to the licensee;
 - (e) to impose a penalty not exceeding 10 penalty units;
 - (f) to reject the complaint and take no action in relation to the licence or the licensee.
- (3) The Board may impose any conditions on the licence to address the issues which have been determined to have justified the complaint, including conditions related to any of the following matter:
 - (a) noise abatement;

- (b) prohibition of the sale or supply of alcohol between specified hours;
- (c) prohibition of or restriction on activities that could encourage excessive consumption of alcohol, or other misuse or abuse of alcohol.

55. Suspension of licences:

- (1) After conducting a hearing under this Part, the Board may suspend a licence issued under this Act if the Board is satisfied that any of the following apply:
 - (a) the licensee has contravened a provision of this Act;
 - (b) the licensee has contravened a condition of the licence;
 - (c) the licensee has been charged or convicted of an offence under this Act.
- (2) The Board must determine the period for which the licence is suspended, and may determine that the suspension is to apply until the licensee complies with a specific direction given by the Board.
- (3) If it considers it appropriate to do so, the Board may, by written notice given to the licensee, extend the period of suspension for a further specified period.
- (4) Before taking action under subsection (3), the Board must give the licensee a reasonable opportunity to be heard.
- (5) Any decision made by the Board under this section must be communicated in writing to the licensee by the Secretary, and public notification of the suspension, and the period for which it applies, must be given as directed by the Board.

- (6) An Infringement Notice can be issued for any offence for which suspension has been ordered under this section, or the licensee can be prosecuted for any such breach.

56. Cancellation of licences:

- (1) After conducting a hearing under this Part, the Board may cancel a licence issued under this Act if the Board determines that it is in the public interest to do so.
- (2) Without limiting subsection (1), in determining whether it is in the public interest to cancel a licence, the Board, must consider whether any of the following apply:
 - (a) the licensee has contravened a provision of this Act;
 - (b) the licensee has contravened a condition of the licence;
 - (c) the licensee has been convicted of an offence under this Act;
 - (d) the circumstances of such contraventions are such that the licence should be cancelled.
- (3) In addition to the matters set out in subsection (2), the Board may consider any of the following matters:
 - (a) whether the licensee is a fit and proper person to hold a licence;
 - (b) whether the licensed premises are fit and proper premises for the purposes of the licence;
 - (c) any matters relevant to the licensee reported by the police or an inspector;
 - (d) the nature of any complaints made to the Board in relation to the licensee;
 - (e) whether the licence has previously been suspended under this Act.

- (4) Any decision made by the Board under this section must be communicated in writing to the licensee by the Secretary, and public notification of the cancellation must be given as directed by the Board.
- (5) An Infringement Notice can be issued for any offence for which cancellation has been ordered under this section, or the licensee may be prosecuted for any such breach.

PART 11

ENFORCEMENT PROVISIONS

57. Alcohol inspectors:

- (1) The Chief Executive Officer may appoint employees of the Ministry to be alcohol inspectors.
- (2) The Chief Executive Officer may exercise the powers of an alcohol inspector under this Part.
- (3) The Chief Executive Officer may issue an alcohol inspector with an identity card containing the following particulars:
 - (a) alcohol inspector's name;
 - (b) recent photograph of the alcohol inspector;
 - (c) issue and expiry dates of the identity card.
- (4) Failure to comply with subsection (3) does not affect the validity of any power exercised or lawful action taken by an alcohol inspector under this Act.

58. Powers of entry and inspection:

- (1) A police officer or alcohol inspector may, at any time when the sale, supply, manufacture or import of alcohol is authorised by a licence, enter and inspect the licensed premises for the purposes of enforcing this Act and determining whether any requirement applicable to the licence or licensed premises is being breached.

- (2) A police officer or alcohol inspector may, enter and inspect any premises at any time if there are reasonable grounds for suspecting that alcohol is being unlawfully sold, supplied, manufactured or imported on the premises, or that any other breach of this Act is occurring.
- (3) A police officer or alcohol inspector who enters any premises pursuant to this section may:
 - (a) inspect alcohol at the premises, and any other matter related to the sale or supply of alcohol at the premises;
 - (b) require any person at the premises who appears to be in breach of this Act to state their name, address and age, and to verify such details by providing proof of identification;
 - (c) take samples for testing and analysis of any matter, substance or thing which may have constituted a breach of this Act or any requirement applying to the license or licensed premises;
 - (d) take photographs and measurements, and to otherwise collect any necessary evidence relating to the enforcement of this Act;
 - (e) require the production of records and information held by any person relating to any of the following -
 - (i) the sale or supply of alcohol at the premises;
 - (ii) the types and content of alcohol being sold at the premises;
 - (iii) the employment of security and other staff at the licensed premises;

- (iv) the training provided to staff as required by the Act;
 - (v) any other matter related to compliance with this Act or any condition applicable to the licence.
- (f) to order that any matter, substance or thing that appears to be in breach of this Act to be contained, removed or otherwise dealt with so as to prevent any further breach of this Act.
- (4) A police officer or alcohol inspector who enters any premises pursuant to this section may seize any alcohol in the premises which is in breach of this Act or which is not satisfactorily accounted for by any owner or occupant of the premises.
- (5) A police officer or alcohol inspector exercising the power of entry and inspection under this section must, within 72 hours after the inspection, submit to the Chief Executive Officer and to the Secretary a report in writing stating the reason for and results of the inspection.
- (6) A person who hinders or obstructs a police officer or alcohol inspector during an inspection conducted under this section, or who fails or refuses to comply with any lawful requirement imposed by a police officer or alcohol inspector under this section, commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding three (3) months, or both.

59. Directions from the alcohol inspector or police officer:

- (1) If an alcohol inspector or police officer reasonably believes that the number of people in or on licensed premises exceeds the number specified in the licence as the maximum number that can be in or on the licensed premises at any time, or that the number of people on the premises constitutes a danger to safety at the premises or in the surrounding areas, the alcohol inspector or police officer may direct the licensee to require people to leave the premises.

- (2) In addition to the power under subsection (1), the alcohol inspector or police officer may remove people from the licensed premises with such force and assistance as is necessary and reasonable if:
 - (a) the licensee fails to comply with a direction under subsection (1); or
 - (b) people remain in the licensed premises after being required by the licensee under subsection (1) to leave the premises.
- (3) If the licensee is not on the licensed premises when a power under this section is exercised, the alcohol inspector or police officer may give directions to an employee of the licensee, and such a direction is deemed to be a direction given to the licensee.
- (4) Failure by a licensee or employee to comply with a direction of the alcohol inspector or police officer given under this section is deemed to be a breach of a condition of the licence.
- (5) A person who obstructs, hinders or interferes with the execution of duties of a police officer or alcohol inspector under this Act commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding three (3) months, or both.

60. Evidence of certain matters:

- (1) In any proceedings under this Act, evidence of delivery or supply of alcohol is evidence of a sale of the alcohol.
- (2) In any proceedings under this Act, a certificate signed by the Secretary stating that on a specified day, a specified person was or was not the holder of a licence of the specified kind in relation to the specified premises is prima facie evidence of the matters so stated.

61. Powers of the Commissioner of the Samoa Police Service to order closure of premises etc.:

- (1) The Police Commissioner may order that licensed premises be closed, and that no alcohol be sold or supplied on the premises for a period of up to 48 hours on any of the following grounds:
 - (a) if there had been fighting or serious disorder on the premises to which the police have been called;
 - (b) if the police have reasonable grounds for believing that fighting or serious disorder is about to occur on the premises;
 - (c) there is a threat to public safety at the premises;
 - (d) if conduct on the premises amounts to a substantial public nuisance;
 - (e) if alcohol has been served or supplied outside the permitted trading hours, or if the premises have remained open after the time at which they have been required to be closed.
- (2) The Police Commissioner must notify the Board of a decision made to order closure of licensed premises under this section as soon as practicable.

- (3) The Board may order closure of the premises for an additional period of time if the licensee has not taken steps to address the matters which constituted the grounds for the order to be made.
- (4) The Police Commissioner may make a report to the Board of any breach of this Act or any other law by a licensee or which relates to licensed premises, and the Board must treat any such report as a complaint for the purposes of conducting a hearing under Part 10.

62. Exclusion of persons from licensed premises:

- (1) A licensee and an employee of a licensee may use reasonable force to exclude or remove a person from the licensed premises in any of the following circumstances:
 - (a) the person is drunk, violent, quarrelsome or disorderly;
 - (b) the person is using profane or foul language;
 - (c) the person does not comply with reasonable requirements relating to dress standards or standards of behaviour of the premises;
 - (d) the presence or continued presence of the person on the licensed premises would render the licensee liable to a penalty under this Act or any other law.
- (2) A person who does not comply with the lawful actions taken by a licensee or an employee under subsection (1) commits an offence and is liable upon conviction to a fine not exceeding 25 penalty units or to imprisonment for a term not exceeding three (3) months, or both.

PART 12

GENERAL OFFENCE PROVISIONS

63. Infringement notices:

- (1) Regulations may be made under this Act to provide for the enforcement of the Act by the service of an Infringement Notice on a person who is in breach of the Act.
- (2) Police officers and alcohol inspectors may issue and serve an Infringement Notice on persons who they have found to be in breach of the Act, or at the direction of the Board, if the Board has determined that a breach has occurred.
- (3) The following are offences for which Infringement Notices may be served on offenders:
 - (a) illegally serving alcohol to minors;
 - (b) illegal purchase of alcohol by minors;
 - (c) selling or supplying alcohol outside of permitted trading hours;
 - (d) selling or supplying alcohol in containers which are prohibited or restricted under this Act;
 - (e) failure to comply with a requirement of this Act, an approved standard applied under this Act, or a condition of a licence issued under this Act;
 - (f) any other offence prescribed by Regulations.

64. General penalty:

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

65. Breach of licence conditions:

A licensee who breaches a condition applicable to a licence issued under this Act, for which no other penalty applies under this Act commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding six (6) months, or both.

66. People on licensed premises for unlawful purposes:

- (1) A licensee who permits a person to remain on licensed premises knowing or believing that the person is there for an unlawful purpose, commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding six (6) months, or both.
- (2) A licensee who permits licensed premises to be used for the sale of any goods or articles that the licensee suspects or knows of being stolen or to be illegal commits an offence and is liable upon conviction to a fine not exceeding 200 penalty units or to imprisonment for a term not exceeding six (6) months, or both.
- (3) A licensee who permits a person to remain on the licensed premises if the person is drunk, violent, quarrelsome, disorderly or is using profane or foul language, commits an offence and is liable upon conviction to a fine not exceeding 25 penalty units or to imprisonment for a term not exceeding three (3) months, or both.

67. Sale of undesirable alcohol products:

- (1) In this section “undesirable alcohol product” includes all of the following:
 - (a) any alcohol product containing any substance that when sold is an offence under any law;
 - (b) any alcohol sold in a container which bears or has attached to it any false or misleading statement, word, brand, label or mark purporting to indicate the nature, quality, strength, purity, composition, weight, origin, age or effects of the alcohol contained in the container, or of any ingredient or such alcohol;
 - (c) any other product prescribed as an “undesirable alcohol product”.
- (2) The Minister may by written notice, declare a specified alcohol product or class of alcohol products to be an undesirable alcohol product.
- (3) A licensee who sells or supplies, or who permits to be sold or supplied on the licensed premises an undesirable alcohol product commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding three (3) months, or both.

68. Cleanliness and maintenance of licensed premises:

A licensee who fails to keep the licensed premises in a clean condition or to properly maintain the premises and all equipment, appliances, fittings and furniture in the premises in a good and healthy condition commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units.

69. Provision of false information:

A person who does either of the following:

- (a) provides information in accordance with a provision of this Act which is false, misleading or deceptive in any particular;
- (b) provides any document required to be provided under this Act which is not genuine, or is false or misleading,

commits an offence and is liable upon conviction to a fine not exceeding 200 penalty units or to imprisonment for a term not exceeding six (6) months, and if the person has been issued a licence, the licence is automatically cancelled.

70. Licensee liable for acts of employees:

- (1) A licensee or manager of licensed premises commits an offence under this Act, and is liable to the punishment prescribed for the offence, if, a servant, agent or employee of a licensee or of the manager sells or supplies alcohol on the licensed premises in breach of this Act.
- (2) Subsection (1) applies to a person who sells or supplies alcohol in breach of this Act while acting or purporting to act on behalf of the licensee or a manager.

PART 13 MISCELLANEOUS

71. Approved forms:

The Chief Executive Officer may approve forms for any purpose under this Act.

72. Forfeiture of alcohol:

Upon the recording of a conviction of any person for an offence against this Act, the Court may in addition to any other penalty imposed or order made, determine and order that any alcohol which is involved in the commission of the offence (whether or not it has been seized prior to the

conviction) be forfeited to the Government to be sold, destroyed or otherwise disposed of as the Minister determines.

73. Protection of Board members and others:

The members of the Board, the Chief Executive Officer, an alcohol inspector or a police officer and any other employee of the Ministry who lawfully exercises a function or power under this Act, or who does any act authorised by this Act in good faith, are not liable in any civil or criminal proceedings for such acts, decisions or determinations.

74. Regulations:

- (1) The Head of State, acting on the advice of Cabinet, may make regulations which are contemplated by this Act, or which are necessary for or incidental to any matter provided for under this Act.
- (2) Without limiting the generality of subsection (1), Regulations may be made under this Act for any of the following purposes:
 - (a) permitting or regulating the sale of alcohol by or on behalf of Government;
 - (b) prescribing additional powers and processes for the enforcement of this Act;
 - (c) prescribing any other substance or thing to be alcohol for the purposes of this Act;
 - (d) prescribing any other power or procedure for the Board;

- (e) prescribing any matter relevant to the proof of age for the purposes of this Act, including any approved means of such proof;
- (f) prescribing any conditions applicable to any licence issued under this Act;
- (g) prescribing any signage which must be displayed by any licensee under this Act, and the means of such display;
- (h) prescribing any additional procedural matter or requirement relevant to the renewal of a licence under this Act;
- (i) prescribing the rights and powers of the Village Fono and representatives of the community in relation to the administration and enforcement of this Act;
- (j) prescribing any days on which the sale or supply of alcohol is restricted or prohibited;
- (k) prescribing approved standards applicable to the manufacture of alcohol in Samoa;
- (l) prescribing any other matter or requirement relevant to the manufacture or importation of alcohol in Samoa;
- (m) imposing restrictions or prohibitions on the types of alcohol products which may be sold, supplied or manufactured in Samoa, or imported into Samoa, including matters relevant to undesirable alcohol products;
- (n) imposing restrictions or prohibitions on the types of containers which may be used for alcohol products sold, supplied or manufactured in Samoa, or imported into Samoa;
- (o) imposing requirements or controls over the labelling of alcohol products in Samoa, or which are imported into Samoa;

- (p) further clarifying the concept of a “standard drink” or serving of alcohol for the purposes of this Act;
 - (q) imposing restrictions or prohibitions on the advertising of alcohol products in Samoa;
 - (r) prescribing requirements, procedures and powers when the Board conducts a hearing under Part X;
 - (s) providing for the proof of any matter relevant to this Act by certificate or otherwise;
 - (t) prescribing fees for the purposes of the Act;
 - (u) prescribing any matter relevant to the forfeiture of alcohol which is in breach of the Act;
 - (v) providing for any other matter to ensure the smooth and effective transition from the repealed Act to the regulation of alcohol in accordance with the Act;
 - (w) prescribing offences for breaches of Regulations and imposing penalties for such offences, which may be fines not exceeding 250 penalty units or terms of imprisonment of up to 12 months, or both.
- (3) The amount of a fee prescribed under subsection (2)(u):
- (a) shall be proposed by the Ministry with the concurrence of the Board; and
 - (b) is subject to the consideration and approval of the National Revenue Board under the Public Finance Management Act 2001.

75. Repeal:

The Liquor Act 2011 is repealed.

76. Savings provisions:

- (1) At the commencement of this Act, any licence or permit issued under the repealed Act continues to be valid under this Act for a period of 12 months from the date of commencement of this Act.
- (2) All decisions, determinations and resolutions taken by the Board under the repealed Act are taken to be valid and to continue to have full force and effect until otherwise determined under this Act.
- (3) At the commencement of this Act, any offence committed and any pending hearing or complaints made under the repealed Act continue and they are to be dealt with under the relevant provisions of the repealed Act as if the repealed Act has not been repealed until such matters have been dealt with completely.

77. Transitional arrangements:

- (1) The members appointed to the Liquor Control Board under the repealed Act are taken to be members of the Board under this Act, until the appointment of members of the Board under the Act.
- (2) The Secretary appointed under the repealed Act continues to hold office as the Secretary under the Act, until an alternative appointment is made under the Act.
- (3) The appointment of an alcohol inspector under the repealed Act which is current at the commencement of this Act remains valid and is taken to have been an appointment made under this Act.

- (4) A person who holds a licence or permit saved by section 76(1) must apply for a new licence under this Act within the 12 months period from the commencement of the Act and any licence that is not renewed is taken to be null and void when the 12 months period expires.
