



BERMUDA

LIQUOR LICENCE ACT 1974

1974 : 89

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PART I

PRELIMINARY

Interpretation and construction

- 1 (1) In this Act, unless the context otherwise requires-
- “beer” includes ale, porter, stout and any other description of beer;
 - “the chairman” means the chairman of the licensing authorities appointed under section 4;
 - “club” means a members’ club or, as the case may be, a proprietary club;
 - “dance hall” means a place where persons assemble to dance, other than a house used exclusively as a dwelling to which personal friends are invited by the owner or lawful occupier;
 - “hotel” means an hotel licensed under the Hotels (Licensing and Control) Act 1969 [*title 17 item 2*], and includes premises in respect of which a certificate of exemption is issued and in force under section 4 of that Act;
 - “intoxicating liquor” means spirits, liqueurs, wine, beer, cider, perry, and any other fermented, distilled or spirituous liquor, but does not include medicinal wine;
 - “licence” means a licence for the sale of intoxicating liquor granted under this Act and includes a permit;

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- “licensed person” means a person to whom a licence has been granted and is in force;
- “licensed premises” means premises in respect of which a licence has been granted and is in force;
- “licensing authority” means the persons appointed under section 4 to be the licensing authority for a licensing district and “the licensing authority” means the appropriate licensing authority for any licensing district;
- “licensing district” means one of the licensing districts mentioned in section 3;
- “medicinal wine” means wine intended primarily for use as a tonic or in connection with the bona fide treatment of invalid persons, the alcoholic content of which does not exceed 27% proof;
- “members’ club” means a bona fide members’ club, whether or not incorporated, the members of which are not associated with a view to profit;
- “mess” means any mess or canteen operated with the approval of the appropriate commanding officer for the use of members of Her Majesty’s Forces in Bermuda;
- “Minister” means the Minister responsible for liquor licensing;
- “permitted hours” in relation to any licensed premises, means the permitted hours in accordance with section 29;
- “police mess” means any mess operated with the approval of the Governor for the use of the members of the Bermuda Police Service;
- “premises” includes any place in respect of which a licence has been granted under this Act for the provision and sale of intoxicating liquor;
- “proprietary club” means a club operated on premises which are not licensed as an hotel under the Hotels (Licensing and Control) Act 1969 [*title 17 item 2*], the expenses of which are borne by a proprietor who receives the subscriptions of the members and in return therefor provides club facilities, including the supply of intoxicating liquor;
- “servant” includes a clerk, or any person temporarily or otherwise employed, and either with or without wages;
- “unlawful game” means any game of chance or of mixed chance and skill for winnings in money or moneys worth—
- (a) which involves playing or staking against a bank, whether the bank is held by one of the players or not; or
 - (b) in which the chances, whether by reason of the nature of the game or the manner in which it is conducted, are not equally favourable to all the players; or

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- (c) in which the stakes or any part thereof are disposed of otherwise than as payment to a player in winnings; or
- (d) which is played by means of a mechanical slot machine,
but does not include—
 - (i) a game of chance played with dice by persons on licensed club premises solely for the purpose of determining which of those persons shall be responsible for the purchase of intoxicating liquor for consumption by persons on the premises at the time the game is played; or
 - (ii) a lottery which is deemed not to be an unlawful lottery under the Lotteries Act 1944 [*title 10 item 10*]; or
 - (iii) bingo or the game known as cinemaraces; or
 - (iv) the game known as crown and anchor if played on the premises of any licensed club in accordance with the conditions of a permit issued by the Commissioner of Police.

(2) For the purposes of this Act, where intoxicating liquor is, as a result of a previous agreement for sale, appropriated so as to complete that sale by or on behalf of a licensed person holding a Licence (A) or, as the case may be, a Restricted Licence (A)—

- (a) in any bonded or other warehouse the property of, or in the occupation or under the control of, such licensed person;
- (b) on any wharf or dock or on premises comprising the Bermuda Airport within the meaning of the Civil Airports Act 1949 [*title 23 item 1*],

the sale shall, if the intoxicating liquor appropriated as aforesaid is delivered from the warehouse, wharf, dock or airport for consumption outside Bermuda, be deemed to take place on the licensed premises specified in the Licence (A) or Restricted Licence (A), as the case may be.

(3) For the purposes of this Act the supply of intoxicating liquor in club premises to members of a members' club shall be deemed to constitute a sale.

[Section 1 amended by 1997:37 effective 6 May 1999; and by 1998:9 effective 15 May 1998; "Minister" substituted by BR30/2002 effective 14 June 2002; "Minister" substituted by BR67/2007 effective 13 July 2007; Section 1 subsection (1) amended by inserting "premises" by 2010 : 29 s. 2 effective 1 June 2010]

Restrictions on sale of intoxicating liquor

2 (1) Except as permitted by this Act or under and in accordance with a licence granted thereunder, it shall not be lawful for any person to sell any intoxicating liquor by retail or wholesale in Bermuda,

(2) Any person who contravenes subsection (1) or fails to comply with any condition subject to which his licence is granted commits an offence:

Punishment on summary conviction; imprisonment for 6 months or a fine of \$1,000.

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(3) Subsection (1) does not apply in the case of any of the activities specified in the First Schedule.

PART II THE LICENSING SYSTEM

Licensing districts

3 (1) For the purposes of this Act Bermuda shall be divided into three licensing districts, namely—

- (a) the Eastern District, consisting of the parishes of St. George's, Hamilton and Smith's and including the Town of St. George;
- (b) the Central District, consisting of the parishes of Pembroke, Devonshire and Paget and including the City of Hamilton;
- (c) the Western District, consisting of the parishes of Warwick, Southampton and Sandys.

(2) There shall be a licensing authority for each licensing district.

(3) The licensing authority for the Central District shall be the competent licensing authority in relation to Tour Boat Licences.

[Section 3 amended by 1998 : 9 effective 15 May 1998]

Constitution etc. of licensing authorities

4 (1) The Senior Magistrate shall be the chairman of each licensing authority.

(2) The Governor shall appoint a person to be deputy chairman who shall ex officio be a member of the licensing authority for each licensing district.

(3) In the absence of the chairman the deputy chairman shall act as chairman and shall have all the powers conferred on the chairman under this Act.

(4) The Governor shall also appoint as members of the licensing authority for each licensing district three residents of the district each of whom shall be a resident of a different parish within that district.

(5) The appointment of any person under subsection (4) shall terminate if he ceases to reside in the licensing district in respect of which he is appointed.

(6) Subject to subsection (5), persons appointed under this section shall hold office for a period of three years.

(7) A person shall not be appointed under this section if he is directly or indirectly interested in the sale of intoxicating liquor, and for the purposes of this subsection the owner of licensed premises, or premises in respect of which a licence is applied for shall be deemed to be an interested person, but a member of a licensed club shall not for such purposes thereby be deemed to be an interested person.

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(7A) Subsection (7) shall apply in relation to service by a person as chairman or deputy chairman of a licensing authority as it applies in relation to the appointment of a person as a member of such an authority.

(8) In the exercise of his powers under this section the Governor shall act on the advice of the Minister.

(9) *[omitted][spent]*

[Section 4 amended by 1998 : 9 effective 15 May 1998]

Minister may give policy directions

4A The Minister may, after consultation with the chairman, give such general directions as to the policy to be followed by the licensing authority in the performance of its functions as appear to the Minister to be necessary in the public interest; and the licensing authority shall give effect to any such directions.

[Section 4A inserted by 1998 : 9 effective 15 May 1998]

Clerk to licensing authorities

5 (1) The chairman may designate a public officer to be clerk to the licensing authorities.

(2) The clerk shall assist the licensing authorities in the performance of their functions and shall perform such duties as the chairman may assign to him,

Procedure of licensing authorities

6 (1) A member of a licensing authority who has any interest whatsoever in any application to be heard by the licensing authority shall declare such interest and the chairman shall determine whether that member shall take part in the proceedings of the licensing authority on that application.

(2) Three members of the licensing authority shall form a quorum.

(3) Any question arising at any meeting of the licensing authority touching the grant or transfer of any licence shall be determined by a majority of the members present, and the chairman shall have a casting vote in addition to his original vote.

(4) Every licence shall be signed by the members of the licensing authority issuing the licence.

Sittings of licensing authority

7 (1) The licensing authority shall sit to hear applications for the grant or transfer of licences—

- (a) at the regular annual session to be held at such place and on such days during the first twenty-one days of April in each year as shall be notified by the licensing authority in the Gazette at least fourteen days prior to the first of such days;

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- (b) at any special session to be held at such place and on such days as shall be notified by the licensing authority in the Gazette at least fourteen days prior to the first of such days.

(1A) Where an application is made for a Members' Club Licence, the applicant shall supply to the licensing authority a copy of the club's constitution and byelaws (by whatever named called).

(2) The chairman shall cause a notice to be published in the Gazette containing details of each application for the grant or transfer of a licence which is to be heard at any regular annual session or special session and such notice shall, subject to subsection (3), include the following particulars:—

- (a) the name of the applicant or transferee;
- (b) the name of the manager of the business;
- (c) the class of licence for which application will be made;
- (d) the address of the premises in respect of which application will be made; and
- (e) the name under which the premises will be operated.

(3) In the case of a members' club licence the notice under subsection (2) shall include the following particulars:—

- (a) the name of the club;
- (b) the name of the secretary of the club; and
- (c) the address of the premises in respect of which the application will be made.

(4) An applicant at any special session or, if there is more than one, each of them in equal proportion, shall, in addition to the fees payable under section 27, pay all expenses of publishing notices for that session.

[Section 7 amended by 1998 : 9 effective 15 May 1998]

Discretion in licensing authority to grant, etc., licences

8 (1) Subject to this Act, the licensing authority shall have an absolute discretion with respect to the grant or transfer of any licence.

(2) Where the licensing authority—

- (a) refuses to grant or transfer a licence; or
- (b) grants or transfers a licence in a case where objection is made by any person to the grant or transfer under section 12,

the licensing authority shall state at the hearing of the application the reasons for its decision and shall include in the record of the proceedings a statement of all the facts relevant to its decision and the reasons for its decision:

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Provided that, if the licensing authority refuses to grant or transfer a licence on the ground specified in section 15(1)(a)(i) or (ii), it shall be sufficient for it to state that it does not consider it expedient that the licence should be granted or transferred.

(3) When considering an application for the grant of a licence, the licensing authority shall have due regard to the public welfare and to the suitability of the premises in respect of which the application is made.

Classes of licence

9 (1) Licences under this Act shall be of nine classes, namely—

- (a) a Licence (A) for the sale on the premises in respect of which the licence is granted of intoxicating liquor not to be consumed on such premises, or on any premises contiguous thereto in the occupation of the licensed person;
- (b) a Restricted Licence (A) for the sale in any shop occupied by the licence holder of intoxicating liquor in bonded packages for consumption outside Bermuda;
- (c) a Licence (B) for the sale on the premises in respect of which the licence is granted of intoxicating liquor to be consumed on such premises;
- (d) an Hotel Licence for the sale on the premises in respect of which the licence is granted of intoxicating liquor to be consumed on such premises;
- (e) a Restaurant Licence for the sale on the premises in respect of which the licence is granted of intoxicating liquor to be consumed on such premises;
- (f) a Night Club Licence for the sale on the premises in respect of which the licence is granted of intoxicating liquor to be consumed on such premises;
- (g) a Proprietary Club Licence for the sale on the premises in respect of which the licence is granted to bona fide members of the proprietary club of intoxicating liquor to be consumed on such premises;
- (h) a Members' Club Licence for the sale on the premises in respect of which the licence is granted to bona fide members of a members' club, and guests introduced by them, of intoxicating liquor to be consumed on or off such premises;
- (i) a Tour Boat Licence for the sale on the boat (being a boat equipped to carry not fewer than ten passengers) in respect of which the licence is granted, of intoxicating liquor to be consumed on the boat.

(2) A Licence (A) or Restaurant Licence may be limited to the sale of beer and wine only and any such limitation shall be endorsed on the licence.

(3) Licences shall be in the forms prescribed by regulations made under section 54.

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(4) Nothing in this Part shall be construed so as to preclude the holder of one class of licence from obtaining concurrently a different class of licence in respect of the same premises.

[Section 9 amended by 1989 : 63 effective 2 January 1990, by 1997 : 24 effective 14 July 1997; and by 1998 : 9 effective 15 May 1998]

Persons to whom licences may be granted

10 (1) Where an application for a licence is made by an individual, such licence, if granted, shall be issued to the applicant.

(2) Where an application for a licence is made by an unincorporated club such licence, if granted, shall—

- (a) in the case of a members' club, be issued to the officers thereof; or
- (b) in the case of a proprietary club, be issued to the proprietor thereof,

(3) Where an application for a licence is made by a body corporate, such licence shall, if granted, be issued to the body corporate in its corporate name and in the event of any contravention of this Act by a body corporate any penalties imposed under this Act shall be enforceable against the body corporate or against the directors or other officers jointly and severally, or in the case of an incorporated club, against the members of the committee of management thereof jointly and severally.

(4) The following persons shall be disqualified for holding a licence—

- (a) any person who is under the age of eighteen years;
- (b) any person who has been convicted—
 - (i) of a contravention of section 2(1) of this Act; or
 - (ii) of a criminal offence, conviction of which involves a finding that the person convicted committed fraud or some other dishonesty; or
 - (iii) of an offence under section 154 or 155 of the Criminal Code (keeping a brothel or keeping a common gaming house);
- (c) any person serving in Her Majesty's Forces in Bermuda or any member of the Bermuda Police Service:

Provided that this subsection shall not prevent the grant or transfer of a licence to a club the members or officers of which include persons disqualified under this subsection.

(5) The captain may not be the holder of a Tour Boat Licence unless he is also either the owner or the manager of the boat in question.

[Section 10 amended by 1997:37 effective 6 May 1999; by 1998:9 effective 15 May 1998; and subsection (4)(a) amended by 2001:20 s. 7(1) & Sch 2 effective 1 November 2001]

Application for grant or transfer of licence

11 (1) An applicant for the grant or transfer of a licence, whether the transfer is to another person or to other premises, shall give written notice to the licensing authority and

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to the Commissioner of Police of his intention to apply therefor and shall state in such notice—

- (a) in the case of an application for the grant of a licence, the particulars mentioned in section 7(2) or (3);
- (b) in the case of an application for the transfer of a licence, in addition to the particulars required by paragraph (a), the name of the person from whom, or, as the case may be, the location of the premises from which, the licence is to be transferred.

(2) Applications to be heard at the regular annual sessions shall be made during the first fourteen days of March in each year.

(3) Where an application for the grant or transfer of a licence is submitted by the applicant and no objection is made thereto under section 12, the applicant shall not be required to attend at the hearing of the application unless he receives a notice in writing signed by the chairman requiring his attendance.

(4) Where objection is made under section 12, or if the applicant receives a notice requiring his attendance under subsection (3), then—

- (a) if the applicant is an individual, he shall appear in person before the licensing authority unless the licensing authority in any particular case allows some other person, authorized in writing in that behalf by the applicant, to represent the applicant at the hearing;
- (b) if the applicant is a firm, unless the licensing authority requires a partner or the partners of the firm to appear before them in person, the firm may be represented at the hearing by a person authorized in writing in that behalf by a partner of the firm;
- (c) if the applicant is a corporate body other than an incorporated club unless the licensing authority requires a director or directors of the corporate body to appear before it in person, the corporate body may be represented at the hearing by any officer of the corporate body authorized in writing in that behalf by a director of the corporate body;
- (d) if the applicant is a club, the proprietor or an officer of the club shall appear in person before the licensing authority.

(5) Where—

- (a) a person has made application for a licence and that application was rejected; and
- (b) that person within twelve months beginning on the day of the rejection makes a further such application which in the opinion of the licensing authority raises the same issues, or substantially the same issues, as were raised by the earlier application,

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the further application shall not be considered unless the licensing authority grants special leave.

[Section 11 amended by 1998 : 9 effective 15 May 1998]

Objection to grant or transfer of licence

12 (1) Any person ordinarily resident in the parish in which the premises sought to be licensed are located, or any person in any other parish being the owner or occupier of any property lying within three hundred yards of such premises, or the Commissioner of Police, may object to the grant or transfer of a licence in respect of those premises; and where objection is made the following provisions shall have effect—

- (a) written notice stating in general terms the grounds of objection to the grant or transfer shall be served on the licensing authority and on the applicant, and, where the person objecting to the application is not the Commissioner of Police, on the Commissioner of Police, in each case not less than three days before the date set by the licensing authority for hearing the application;
- (b) in the event of failure to comply with paragraph (a) the licensing authority, upon such terms as to payment of costs and expenses as may seem just, may adjourn any hearing to enable at least three days to elapse between service of the notice and the hearing;
- (c) the licensing authority may direct or permit the amendment of any notice;
- (d) the licensing authority may, subject to such conditions as it thinks fit to impose, allow a number of persons qualified under this subsection to be represented for the purposes of the objection by a person, whether or not himself so qualified, appointed by them.

(2) The licensing authority, in considering any objection, shall receive evidence on oath, and any member of the licensing authority present at the hearing may administer such oath.

(3) A licensing authority shall have the same powers with regard to compelling the attendance and examination of witnesses as are conferred on a court of summary jurisdiction by the Summary Jurisdiction Act 1930 [*title 8 item 34*] and it shall be the duty of any police officer to whom any summons or warrant signed by the presiding member of the licensing authority is issued to serve or execute the same in the manner required by section 8 of that Act.

(4) Witness money shall be allowed to witnesses as prescribed in section 11 of the Summary Jurisdiction Act 1930, and shall be paid by the person at whose request such witnesses are summoned, who shall, on being so required by the licensing authority, deposit such sum as the authority may require to cover such witness money, the unexpended balance of which shall be refunded to the depositor.

(5) A licensing authority may grant costs in accordance with the scale of costs applicable in a court of summary jurisdiction to a successful applicant for the grant or transfer of a licence against any person who has lodged an objection under this section, or

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vice versa, and such costs shall be recoverable in all respects as if they had been costs awarded in a civil action in a court of summary jurisdiction.

[Section 12 amended by 1998 : 9 effective 15 May 1998]

Plans of licensed premises

13 (1) Without prejudice to section 11 but subject to subsection (2), an applicant for the grant or transfer of a licence shall submit for the approval of the licensing authority a sketched plan of the licensed premises and the precincts thereof showing by appropriate colourings or markings—

- (a) the general lay-out of the premises;
- (b) the parts of the premises to be used for the sale or consumption of intoxicating liquor or, in the case of an hotel, the public or common parts of the premises to be used for the sale of intoxicating liquor;
- (c) the location of sanitary facilities; and
- (d) such other information as may be prescribed by regulations made under section 54.

(2) The provisions of subsection (1) shall apply in respect of all licensed premises upon the first application for the grant or transfer of a licence after the coming into operation of this Act, but shall not apply to any subsequent application in respect of the same licensed premises unless an alteration is intended to be made which would render inaccurate the plan submitted under subsection (1), in which event a revised plan of the premises shall be submitted indicating the proposed alterations.

(3) The licensing authority may refuse to grant or transfer a licence in respect of any licensed premises unless the alterations thereto have previously been approved by the authority.

(4) The licensing authority shall retain the plans of licensed premises submitted under this section.

Provisional licences

14 (1) Where it is intended to construct a new building, or to alter an existing building, for the purpose of using the building, when constructed or altered, as licensed premises, then application may be made to the licensing authority for the grant of a provisional licence in respect of the building, being a provisional licence of one of the classes of licence specified in section 9.

(2) The grant of a provisional licence in respect of a building shall not have effect so as to authorize the sale of intoxicating liquor in that building.

(3) In connection with an application for the grant of a provisional licence, the applicant shall submit to the licensing authority such plans or specifications relating to the building which it is intended to construct or alter as the licensing authority may consider necessary to enable it to deal with the application.

(4) Where the licensing authority receives an application for the grant of a provisional licence, and is satisfied—

- (a) that the application is made in good faith; and
- (b) that the plans or specifications submitted to them are such as to enable them to deal with the application,

then, subject to this section, the licensing authority may grant to the applicant a provisional licence.

(5) The provisions of this Part shall apply, with necessary variations, to the grant or transfer of a provisional licence as they apply in relation to the grant or transfer of a licence.

(6) A provisional licence shall be granted subject to the condition that it shall cease to have effect after a day appointed by the licensing authority and specified in the provisional licence, being the last day of the period (hereinafter referred to as “the constructional period”) within which, in the opinion of the licensing authority, the completion of the construction or alteration of the building, in accordance with the plans and specifications submitted to the licensing authority, may reasonably be expected:

Provided that the chairman may in any particular case, on the application of the holder of the provisional licence, and if it appears to him to be equitable to do so, endorse the provisional licence so as to appoint a later day than the day previously appointed, and on the provisional licence being so endorsed the constructional period shall be deemed to be extended accordingly.

(7) Where a provisional licence has been granted, the licensing authority, on the application of the holder of the provisional licence—

- (a) may consent to amendments or variations of any plans or specifications submitted to it in connection with the application for the provisional licence;
- (b) may transfer the provisional licence to another person;
- (c) may alter the provisional licence so that it relates to another class of licence than the class to which it previously related.

(8) At any time before the expiration of the constructional period the holder of a provisional licence may apply to the licensing authority for the grant of a licence of the class of the provisional licence; and, subject as hereinafter provided, this Act shall apply in relation to the application and in relation to the decision of the licensing authority with respect to the application and generally in relation to procedure and in all other respects as if the application had not been preceded by the grant of a provisional licence.

(9) In this section “building” includes any terrace, lawn, garden or grounds immediately adjacent to and used with a building; and any reference to the construction or alteration of a building shall be deemed to include a reference to the laying out, adaptation or preparation of any such terrace, lawn, garden or grounds.

Grant of licences subject to conditions

15 (1) The following conditions shall be observed with respect to the grant of licences—

- (a) the licensing authority shall be satisfied—
 - (i) that the applicant is of good character and is a fit and proper person to be entrusted with the sale of intoxicating liquor;
 - (ii) where a manager is appointed, that such manager is a fit and proper person to be entrusted with the management of licensed premises;
 - (iii) that the premises are suitably located and well designed; and
 - (iv) that there are no sustainable objections to the grant of the licence to the applicant and, in particular, no such objections, raised by or on behalf of persons owning or occupying neighbouring property, based on any of the following anticipated grounds—
 - (aa) undue noise;
 - (bb) disruption of the traffic flow;
 - (cc) accumulation of trash;
 - (dd) disturbance attributable to alcohol misuse;
- (b) every licence shall be granted in respect of certain specified premises on which alone it shall be lawful to sell intoxicating liquor and the licence shall contain a particular description of such premises;
- (c) premises in respect of which a Licence (B) is granted shall have no internal or private communication with any other building or premises, but shall consist either of the whole of an entirely detached building or of one or more rooms having no internal or private communication with any other building, room or premises.

(2) A licence for premises other than an hotel shall be authority for the sale of intoxicating liquor only in the parts of the premises delineated in plans submitted to the licensing authority under section 13 and approved by the authority as parts of the premises in which such liquor is permitted to be sold.

(3) In considering the fitness of a body corporate to hold a licence, the licensing authority shall have regard to the fitness of the directors of the body corporate or other persons having executive control over it as if the licence were held by them jointly.

(4) Where any change (however made) occurs in the management, or in the control of the management, of licensed premises, the holder of the licence shall forthwith supply to the licensing authority in writing details of the change.

(5) Without prejudice to any other provision of this section, the licensing authority may grant a licence subject to such conditions as the authority deems expedient to secure the proper conduct of the licensed premises, and, in particular, the authority may restrict the sale of intoxicating liquor of certain kinds or in certain containers.

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(6) Any conditions imposed under subsection (5) shall be endorsed on the licence and the licensing authority shall by notice in writing to the applicant give its reasons for the imposition of conditions under subsection (5).

[Section 15 amended by 1998 : 9 effective 15 May 1998]

Taking effect and duration of licences, etc

16 (1) Except as provided by this Act every licence shall be granted to take effect from 1st June next after the granting thereof, and shall remain in force for one year.

(2) It shall be lawful for the licensing authority to grant any licence at any time to take effect on and from the date named therein, and to continue for the period ending on 31st May next following; and where a licence is issued after 30th November in any year the person obtaining the licence shall pay therefor half of the sum payable for a year as set out in the Second Schedule.

(3) This section shall not apply to a provisional licence.

(4) Where a licence has been granted and was in force immediately before the commencement of the Liquor Licence Amendment Act 1998, it shall be deemed to remain in force for an additional period of two months upon payment by the licensed person of one-sixth of the sum payable for a year as set out in the Second Schedule.

[Section 16 amended by 1998 : 9 effective 15 May 1998]

Transfer of licences

17 (1) The licensing authority may, on application made in accordance with this Act, transfer a licence—

(a) to any person; or

(b) to any premises within the same licensing district, approved by the licensing authority.

(2) Any transfer of a licence shall be endorsed on the original licence.

Special conditions with respect to grant, etc. of particular classes of licence

18 (1) No licence, other than a Licence (A) or Restricted Licence (A), shall be granted or transferred unless the applicant produces to the licensing authority a certificate granted by the Chief Medical Officer certifying that the premises in respect of which the application is made are furnished with sufficient and suitable sanitary accommodation for the use of patrons of both sexes and that the sanitary condition of the premises is satisfactory in every respect.

(1A) A Licence (A) shall not be granted in respect of premises that are not either a grocery store or a liquor store.

(1B) A licence shall not authorise the sale of any miniature at a grocery store.

(1C) In this section—

“grocery store” means premises where—

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- (a) the main activity is the sale of food provisions for consumption off the premises; but
- (b) intoxicating liquor is also sold from a discrete and separate part of the premises;

“liquor store” means premises where the main activity is the sale of intoxicating liquor, or of products directly associated with the consumption of intoxicating liquor, for consumption or use off the premises;

“miniature” means a container containing ten centilitres of alcohol or less.

(2) No Licence (B) shall be granted or transferred unless the applicant satisfies the licensing authority that the premises in respect of which the application is made are such as to afford reasonable amenities and comforts, regard being paid, inter alia, to such matters as lighting and ventilation and reasonable provision for the seating of customers elsewhere than at the bar counter.

(3) No Hotel Licence shall be granted or transferred unless—

- (a) the applicant produces to the licensing authority a licence or certificate of exemption granted in respect of the hotel under the Hotels (Licensing and Control) Act 1969 [*title 17 item 2*]; and
- (b) the applicant satisfies the licensing authority that the hotel provides sleeping accommodation for not less than thirty guests.

(4) No Restaurant Licence shall be granted or transferred in respect of any premises unless the licensing authority is satisfied—

- (a) that the premises contain a room or rooms adequately furnished and equipped and of suitable size and structure for the purpose of habitually providing substantial meals within such room or rooms for at least twenty-four persons at one time; and
- (b) that the premises are equipped with adequate kitchen accommodation and equipment, refrigeration, crockery, napery, cutlery, silver and glass for the purpose of habitually providing substantial meals for at least twenty-four persons at one time.

(5) No Night Club Licence shall be granted or transferred in respect of any premises unless the licensing authority is satisfied—

- (a) that the premises contain a room adequately furnished and equipped and of suitable size and structure for the purpose of providing music and dancing within such room for at least fifty persons at one time; and
- (b) that music and dancing are to be provided each evening for at least four hours between 9.00 p.m. and 3.00 a.m.

[Section 18 amended by 1998 : 9 effective 15 May 1998]

Special conditions with respect to Club Licences

19 (1) No Members' Club Licence shall be granted unless the applicant satisfies the licensing authority that—

- (a) the club exists bona fide and with a membership of not less than twenty-five persons who have paid, within the twenty months preceding the application, an annual subscription of not less than five dollars; and
 - (b) the intoxicating liquor sold at the club is the joint property of the members of the club, or, in the case of an incorporated club, the property of the club; and
 - (c) no refund or dividend (other than a refund not exceeding the amount of the annual subscription made in the event of termination of membership) is paid to any member of the club, except on the winding up of the club; and
 - (d) the persons responsible for the management of the club are fit persons to be concerned in the management of licensed premises; and
 - (e) the rules of the club make appropriate provisions for—
 - (i) the orderly operation of the club and for admission of persons to the privileges of membership;
 - (ii) requiring members of staff of the club to refrain from permitting a person who joins the club from using the facilities of the club as a member, until 48 hours after obtaining membership;
 - (iii) a notice in writing to be given to new members, on admission to membership, informing them that they are not permitted to use the club's facilities as members until 48 hours after obtaining membership of the club; and
 - (iv) the notice under subparagraph (iii) to specify when the period of 48 hours begins and when it expires; and
 - (f) the club and its premises are such, and are so conducted and equipped, as to afford to its members the reasonable amenities and facilities of a club, and that the sale or supply of intoxicating liquor is not the sole or principal purpose of the club.
- (2) The secretary of a licensed members' club shall keep—
- (a) proper minute books in which shall be entered the proceedings of all meetings of members and of the committee of management of the club of which he is the secretary;
 - (b) a subscription book in which shall be entered the names of the members and temporary members of the club and the dates of the election of such members;

- (c) an honorary membership book in which shall be entered the names of the honorary members and the dates from which they are entitled to privileges as honorary members; and
- (d) an account book in which shall be entered the subscriptions and dues of all members, temporary members and honorary members of the club.

(3) Honorary or temporary membership of a licensed members' club shall not be granted to any person who is not recommended or vouched for in writing for such membership by a member of the club.

(4) The secretary of a licensed members' club, on being required in writing by the licensing authority or the Commissioner of Police, shall produce to the Commissioner of Police for examination by the licensing authority all or any of the books mentioned in subsection (2) within forty-eight hours computed from the time written notice of the requirement was delivered at the club premises.

(5) If any licensed members' club pays any dividend or refund of dues or subscriptions to the members thereof or makes default in complying with the requirements of subsection (4), the licence granted in respect of the club shall forthwith be forfeited.

(6) If the secretary of a licensed members' club produces to the Commissioner of Police any book, being a book which he is required to produce under subsection (4), which is false or incorrect in any material particular, he commits an offence:

Punishment on summary conviction: a fine of \$200.

(7) Provided that it shall be a defence for any person charged with an offence under this subsection to prove—

- (a) that he did not know and had no reasonable cause to believe that the book in question was false or incorrect; and
- (b) that he had taken reasonable steps to ensure that the book was not false or incorrect.

(7A) The facilities of a members' club shall not be extended to a new member until 48 hours after the person obtains membership of the club.

(7B) Where a membership facility of a members' club is extended to a member within 48 hours of obtaining membership of the club, the new member to whom the membership facility is extended and the person who extended the membership facility each commit an offence and each of them is liable on summary conviction to a fine not exceeding \$300.

(7C) The president or the secretary of a members' club or both of them shall be deemed to be liable for any contravention of this Act by—

- (a) a servant or agent of a members' club while acting in the course of duty;
or
- (b) any person acting on behalf of the club,

unless they can prove that they took reasonable care and attention to prevent the contravention.

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(8) The provisions of this section, except paragraphs (b) and (c) of subsection (1), shall apply in relation to a proprietary club as they apply in relation to a members' club as if for references to the secretary there were substituted references to the proprietor.

[Section 19 amended by 2010 : 29 s. 3 effective 1 June 2010]

Duty to maintain conditions under which licence granted

20 (1) Where a licence has been granted or transferred, upon the licensing authority being satisfied that certain conditions exist or certain requirements are being fulfilled in respect of the licensed premises, the holder of the licence shall fully comply with such conditions and continue to fulfil such requirements at all times during the subsistence of the licence, and, in the case of the holder of a Hotel, Restaurant or Night Club Licence, shall at all such times and in every respect conduct a bona fide hotel, restaurant or night club business, as the case may be.

(2) Any holder of a licence who fails to comply with subsection (1) commits an offence:

Punishment on summary conviction: a fine of \$500.

Extension permits

21 *[repealed]*

Alfresco dining permit

21A (1) On the application of a licensed person who is the holder of a Restaurant Licence, the licensing authority may grant a permit ("an alfresco dining permit") authorizing him to sell intoxicating liquor in an open-air area adjoining the licensed premises that is designated in a sketched plan submitted with the application.

(2) The designated area—

- (a) may, but need not, be structurally connected with the restaurant operated by the licence holder; and
- (b) may be located on land that is not owned or leased by the licence holder.

(3) Where the designated area lies within the boundaries of a municipality, the Corporation of that municipality—

- (a) shall be given a copy of the application by the applicant;
- (b) may consent or refuse consent to the application without assigning any reason therefor; and
- (c) may impose such conditions on the use of the designated area as it considers appropriate, and the licence holder shall comply with any conditions imposed under this paragraph as if it were a condition of his licence.

(4) The licensing authority shall refuse an application under subsection (1) unless it is satisfied that the applicant has complied with all relevant statutory provisions,

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including any requirements imposed under the Development and Planning Act 1974, governing the proposed use of the designated area.

(5) Where an alfresco dining permit is granted under subsection (1), the designated area shall be deemed for the purposes of this Act to be included within the licensed premises operated under the Restaurant Licence.

[Section 21A inserted by 1998: 9 effective 15 May 1998]

Occasional licences

22 (1) The chairman may, on an application duly made by or on behalf of any body established for social, charitable or benevolent purposes, grant a licence (in this Act referred to as “an occasional licence”) authorizing that body to provide and sell intoxicating liquor to persons attending such function as may be specified in the occasional licence between the hours of 10.00 a.m. on one day and 2.00 a.m. on the following day.

(2) An occasional licence granted under this section shall specify—

- (a) the periods within which intoxicating liquor may be provided or sold; and
- (b) the place at which intoxicating liquor may be provided and sold.

(3) A single occasional licence may be granted so as to relate to a number of disparate sub-events that are to be staged in different places but as constituent parts of a centrally-organized event.

(3A) A licence other than an occasional licence shall not be granted where the proposed licensed premises are, or form part of, a park listed in the First Schedule to the Bermuda National Parks Act 1986 [*title 19 item 6*].

(3B) Subsection (3A) does not apply in relation to a licence that was in force immediately before the commencement of the Liquor Licence Amendment Act 1998, or to the renewal or transfer (whether or not subject to new conditions) of such a licence.

(3C) An application under this section shall be made by notice in writing to the chairman and a copy of the application shall be served on the Commissioner of Police.

(3D) It shall be within the absolute discretion of the chairman to refuse an application for an occasional licence without assigning any reason therefor.

(3E) An occasional licence granted under this section shall, at any time during the period of the function in respect of which it is granted, forthwith be produced by the person who is in charge of the sale of intoxicating liquor at the function for examination by a police officer at his request, and if it is not so produced, without reasonable excuse, the holder of the licence and that person shall each be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred dollars.

[Section 22 amended by 1998 : 9 effective 15 May 1998]

Appeals to Supreme Court

23 (1) In this section “interested persons”, in relation to a decision of the licensing authority on an application for the grant or transfer of a licence, means—

- (a) where the application is refused, the applicant; or
 - (b) where the application is granted, any person who under section 12 has objected to the grant of the licence.
- (2) Any interested person who is aggrieved by a decision of the licensing authority (including a decision imposing conditions) may, subject to this section, appeal to the Supreme Court against the decision.
- (3) Subject as aforesaid, an appeal by an interested person against a decision of the licensing authority shall lie to the Supreme Court on either or both of the following grounds—
- (a) that on the facts before the licensing authority the decision was unreasonable and cannot be supported; or
 - (b) that the licensing authority erred on a question of law which was material to the decision,
- but on no other ground.
- (4) Any interested person who wishes to appeal against a decision of the licensing authority shall give notice of appeal to the chairman within ten days after the day on which the decision was given; and any such notice of appeal—
- (a) shall be in writing signed by the appellant or by counsel on his behalf;
 - (b) shall set out the grounds of the appeal; and
 - (c) shall be duly given if served personally on the chairman within the time limit as aforesaid.
- (5) On notice of appeal being duly given under this section the chairman—
- (a) shall within five days after the day on which notice of appeal is given transmit to the Registrar the following documents, together with two copies of each document, that is to say—
 - (i) the notice of appeal;
 - (ii) a copy of the record of proceedings before the licensing authority;
 - (iii) a copy of any notice of objection given under section 12;
 - (iv) if the appeal is on the ground that the licensing authority erred on a material question of law, a case stated (on that question of law) by the chairman; and
 - (b) shall within the same time transmit to the appellant, to any person in whose favour the licensing authority have made the decision by which the appellant is aggrieved and to the Attorney General copies of the documents specified in paragraph (a).
- (6) The Registrar, upon receiving the documents referred to in subsection (5)—
- (a) shall enter the appeal; and

- (b) shall in due course give notice to the appellant and to the Attorney General of the date on which the appeal will be heard by the Supreme Court.

(7) The Attorney General shall be entitled to appear and be heard on any appeal to the Supreme Court under this section.

Determination of appeals

24 (1) An appeal under section 23 shall be by way of argument upon the record of the proceedings before the licensing authority but the Supreme Court, if it thinks fit, may admit further evidence, either orally or by affidavit.

(2) In determining an appeal under this section the Supreme Court may dismiss the appeal or may allow the appeal; and where the Court allows an appeal it shall remit the matter to the licensing authority with a direction, as the case may be—

- (a) to grant or transfer the licence which the licensing authority have refused to grant or transfer; or
- (b) to grant or transfer the licence subject to such conditions as the Court may direct; or
- (c) to cancel the grant or transfer of the licence which the licensing authority have granted or transferred,

and the licensing authority shall comply with any such direction:

Provided that where an appeal is allowed on the ground that the licensing authority erred on a material question of law, the Court may remit the matter to the licensing authority with a direction to rehear according to law the application for the grant or transfer of the licence.

(3) Upon the determination of an appeal under this section the Supreme Court may make such order as to the payment of all or any of the costs of the appeal as the Court thinks just and equitable, and any such order may be enforced as if the appeal were an appeal to the Supreme Court in a civil cause or matter.

Notification of Commissioner of Police and Accountant-General of licences granted

25 Within fourteen days after the grant or transfer of a licence the licensing authority shall notify the Commissioner of Police and the Accountant General of the name of the licensed person, the location of the licensed premises and the class of licence granted and the Commissioner of Police shall keep a list of all licences issued and in force.

Surrender of licences

26 (1) The holder of any licence may surrender his licence by giving to the chairman notice in writing, notifying his intention so to do and specifying the date as from which he desires to surrender the licence; and where such notice has been given the licence shall cease to have effect as from the date specified and the premises in respect of which it was granted shall cease as from that date so be licensed premises.

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(2) Where any licence has been surrendered under subsection (1) the licence document shall be delivered to the chairman on the day on which the licence ceases to have effect; and any person who fails to comply with this requirement commits an offence:

Punishment on summary conviction: a fine of \$200.

(3) Where any licence has been surrendered under subsection (1), no part of the licence fee payable under section 27 shall be refunded.

Fees

27 (1) In respect of the class of licence set out in column 1 of the Second Schedule the applicant shall pay, on application therefor, the fee set out in column 2 of the Second Schedule:

Provided that where a Licence (A) or Restaurant Licence is limited to the sale of beer and wine only, the applicant shall pay one-half of the fee therefor set out in the Second Schedule.

And provided further that where application is made for a Restaurant Licence in respect of any vessel, the applicant shall pay one-half of the fee therefor set out in the Second Schedule.

(2) In respect of an occasional licence the applicant shall pay, on application therefor, a fee of \$60.

(3) In respect of a provisional licence, the applicant shall pay, on application therefor, a fee of \$125 and for an extension of the construction period, a fee of \$25 but no hearing fee under subsection (5).

(4) In respect of the grant of a sanitary certificate under subsection (1) of section 18, the applicant shall pay, on application therefor, such fee as may be prescribed under the Government Fees Act 1965 [*title 15 item 18*].

(5) In addition to any other fee payable under this section, but subject to subsection (3), there shall be payable in respect of every application for the grant or transfer of a licence (including a provisional licence) a hearing fee of \$150 for each day or part of a day on which the application is heard by the licensing authority:

Provided that this subsection shall not apply in respect of an application for an occasional licence.

(6) If the licensing authority refuses to grant a licence to any person, or if the applicant withdraws his application for a licence, the Accountant General shall refund to such person any fee paid under subsection (1), (2) or (3).

[Subsections (2), (3) and (5) of section 27 amended as to fees by 1990:11 effective 1 April 1990, and subsections (2) and (5) amended by 1998:9 effective 15 May 1998]

PART III
PERMITTED HOURS

Prohibition of sale etc. of intoxicating liquor outside permitted hours

28 (1) Except during the permitted hours, or as permitted by or under this Act, a person shall not—

- (a) himself or by his servant or agent—
 - (i) sell intoxicating liquor in licensed premises; or
 - (ii) permit the consumption of intoxicating liquor in licensed premises; or
- (b) purchase intoxicating liquor in licensed premises; or
- (c) consume intoxicating liquor in licensed premises; or
- (d) take intoxicating liquor from licensed premises.

(2) Any person who contravenes this section commits an offence:

Punishment on summary conviction: a fine of \$300.

General permitted hours

29 (1) Subject to the succeeding provisions of this Part, the permitted hours in respect of the class of licence set out in column 1 of the Third Schedule are the hours respectively set out in columns 2 and 3 of that Schedule.

(2) *[Subsection (2) amended by 1989:63 effective 2 January 1990; and deleted by 1998:9 effective 15 May 1998]*

(3) The licensing authority may, at the request of any applicant or holder, limit the permitted hours in respect of any premises and any such limitation shall be endorsed on the licence and shall be the permitted hours in respect of those premises.

Exception for residents in hotels

30 The foregoing provisions of this Part shall not prohibit or restrict the sale of intoxicating liquor outside the permitted hours to a resident in an hotel in respect of which a licence is in force, or the consumption or permitting consumption of it in the hotel by him or his guests outside the permitted hours.

Consumption of intoxicating liquor bought during permitted hours

31 Where intoxicating liquor is sold in licensed premises during the permitted hours the foregoing provisions of this Part shall not prohibit during the first thirty minutes after the conclusion of the permitted hours the consumption or permitting consumption of the liquor in the licensed premises.

PART IV
CONDUCT OF LICENSED PREMISES

Duty of licence holder to display notice of permitted hours

32 (1) A licensed person shall cause to be displayed and to be kept on display in a conspicuous place on his licensed premises a printed notice specifying the days and hours on or during which the sale of intoxicating liquor is permitted on the licensed premises under the licence applicable thereto.

(2) A licensed person who fails to comply with subsection (1) commits an offence:

Punishment on summary conviction: a fine of \$20 for each day during which the offence continues.

Restrictions on certain kinds of alcohol

33 (1) A licensed person shall not, himself or by his servant or agent, sell, make available for purchase or supply in any licensed premises, any intoxicating liquor which consists of or is mixed with any alcohol of a kind other than ethyl alcohol.

(2) Any person acting in contravention of subsection (1) commits an offence:

Punishment on summary conviction; imprisonment for 6 months or a fine of \$500.

Restrictions on consumption of intoxicating liquor in unlicensed part of premises

34 (1) Where part of any premises (other than premises operated under an Hotel Licence are licensed premises the licensed person, himself or by his servant or agent, shall not permit any other person to consume intoxicating liquor in any other part of the premises.

(2) If subsection (1) is contravened the licensed person commits an offence:

Punishment on summary conviction: a fine of \$300.

(3) Where a licensed person is charged with an offence under this section it shall be a defence to prove—

- (a) that the liquor was supplied at his expense; and
- (b) that it was consumed by either—
 - (i) the licensed person or his guests; or
 - (ii) persons employed in the premises for the purposes of the business carried on under the licence; and
- (c) that it was consumed in a part of the premises to which the public do not have access.

[Section 34 amended by 1998:9 effective 15 May 1998]

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Restrictions on employment of young persons in certain licensed premises

35 (1) Subject to the exceptions set out in subsection (1A), no licenced person shall employ in the licensed premises a person who is under the age of eighteen years.

(1A) Subsection (1) does not prevent the employment of a person who is under the age of eighteen years—

- (a) in a grocery store as defined in section 18(1C) except in that discrete and separate part of the premises in which intoxicating liquor is sold;
- (b) in premises licensed under a Hotel Licence or a Restaurant Licence or aboard a tour boat in respect of which a Tour Boat Licence has been granted provided that his employment does not involve any function related to the sale of intoxicating liquor; or
- (c) pursuant to a student occupational training scheme approved by the Minister for the time being responsible for labour and related matters.

(2) Any person who contravenes subsection (1) commits an offence:

Punishment on summary conviction: a fine of \$300.

[Section 35 amended by 1998:9 effective 15 May 1998]

Duty of holder of Hotel etc. Licence to lock up intoxicating liquor

36 (1) It shall be the duty of the holder of a Restaurant, Hotel or Night Club Licence to ensure that all intoxicating liquor on the licensed premises is kept locked up except during the permitted hours and that any door leading to or from the bar-room or other place in such premises where intoxicating liquor is ordinarily sold and opening on a public road or street or other place to which the public have access, or opening on any other part of the licensed premises, is kept locked except during the permitted hours.

(2) Any licensed person who, himself or by his servant or agent, contravenes subsection (1) commits an offence:

Punishment on summary conviction: a fine of \$200.

Power to exclude drunken persons etc. from licensed premises

37 (1) Without prejudice to any other right to refuse a person admission to premises or to expel a person from premises, a licensed person or his servant or agent may refuse to admit to, or may expel from, the licensed premises any person who is drunk, or is acting in a disorderly manner, or whose presence in the licensed premises would subject the licensed person to a penalty under this Act or any other statutory provision.

(2) If any person liable to be expelled from licensed premises under this section, when requested by the licensed person or his servant or agent or a police officer to leave the premises, fails to do so, he commits an offence:

Punishment on summary conviction: a fine of \$100.

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(3) A police officer shall, on the demand of the licensed person or his servant or agent, help to expel from the licensed premises any person liable to be expelled from those premises under this section, and may use such force as may be required for the purpose.

Duty of licensed person to produce licence

38 Any licensed person who refuses to produce on demand his licence to any police officer when acting in the execution of his duty commits an offence:

Punishment on summary conviction: a fine of \$100.

Punishment of licensed person, etc. being drunk on licensed premises

39 Any licensed person who is drunk, or who allows his servant or agent to be drunk, on his licensed premises commits an offence:

Punishment on summary conviction: a fine of \$300.

Security on licensed premises with disc jockey, live band or live music after 10:00 p.m.

39A (1) Within twelve months of the coming into operation of this Act, a licensed person who engages the services of a disc jockey, or has a live band or live music on the licensed premises to which the licence applies, after 10:00 p.m., shall also engage the services of security guards for the purpose of maintaining security.

(2) The ratio of the capacity of the licensed premises to the number of security guards shall be—

- (a) for licensed premises with a capacity not exceeding 35 persons, at least one security guard;
- (b) for licensed premises with a capacity exceeding 35 persons but not exceeding 50 persons, at least two security guards; and
- (c) for licensed premises with a capacity exceeding 50 persons, at least one security guard for every 50 persons.

(3) The Minister may in consultation with the Commissioner of Police and the Chief Fire Officer, by Order subject to the negative resolution procedure—

- (a) provide for the means by which the capacity of licensed premises is determined; and
- (b) amend the ratio of the capacity of licensed premises to security guards,

under subsection (2).

(4) An Order made under subsection (3) may make different provisions for indoor and outdoor licensed premises and different circumstances.

(5) A licensed person who fails to comply with subsection (1) or (2), commits an offence and is liable on summary conviction to a fine not exceeding \$3,000.

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(6) For the purposes of this section “capacity” means the maximum number of persons a licensed premises is permitted by law to accommodate.

[Section 39A inserted by 2010 : 29 s. 4 effective 1 June 2010]

Training for managers, supervisors and persons in charge of bars

39B (1) Within twelve months of the coming into operation of this Act, every licensed person shall require every manager, supervisor or person in charge of a bar from which alcohol is provided or sold for consumption on the licensed premises, to be certified as having completed a training programme on responsible alcohol sales and service, prescribed in regulations made under this Act.

(2) A manager, supervisor or a person in charge of a bar from which alcohol is provided or sold for consumption on the licensed premises shall—

- (a) while on duty, carry on his person his certificate as evidence that he has been certified as having successfully completed the programme referred to in subsection (1); and
- (b) produce his certificate for inspection at the request of any police officer or other person having reasonable grounds to ask for it.

(3) A licensed person who fails to comply with subsection (1) or a manager, supervisor or a person in charge of a bar from which alcohol is provided or sold for consumption on the licensed premises who fails to comply with subsection (2) commits an offence and is liable on summary conviction, to a fine not exceeding \$3,000.

[Section 39B inserted by 2010 : 29 s. 4 effective 1 June 2010]

Miscellaneous offences with respect to conduct of licensed premises

40 (1) Any licensed person—

- (a) who on his licensed premises sells to any police officer or treats him to any intoxicating liquor during the time such police officer is on duty to the knowledge of such person or his servant; or
- (b) who refuses or fails to admit to his licensed premises on demand, any police officer when acting in the execution of his duty and demanding admission in that capacity; or
- (c) who permits the playing of any unlawful game on his licensed premises; or
- (d) who permits his licensed premises to be kept or to be used as a brothel; or
- (e) who permits any drunkenness, or any violent, quarrelsome or disorderly conduct on his licensed premises, or on any other premises in his occupation adjoining or contiguous thereto; or
- (f) who, on his licensed premises, sells or serves any intoxicating liquor to, or for consumption by, any person under the age of eighteen years, or allows any person under the age of eighteen years to consume intoxicating liquor; or

- (g) who sells any intoxicating liquor to any person who is drunk, or knowingly sells intoxicating liquor to another person for consumption by such drunken person; or
- (h) who allows any person who is drunk to remain on the licensed premises, or on any other premises in his occupation adjoining or contiguous thereto; or
- (i) who allows his licensed premises, or any premises in his occupation adjoining or contiguous thereto, to be the resort of notorious bad characters or reputed prostitutes or persons under the influence of any controlled drug as defined in the Misuse of Drugs Act 1972 [title 11 item 4], or allows any such persons to remain on such premises longer than is necessary for the purpose of obtaining reasonable refreshment,

commits an offence.

(2) If the holder of a Licence (B) or a Night Club Licence allows a person under the age of eighteen years to be on the licensed premises at a time when intoxicating liquor is on sale at those premises, he commits an offence.

(3) Where the holder of a Licence (B) or a Night Club Licence or his representative considers that a young person in or seeking entry to the licensed premises is under the age of eighteen years, he shall require that young person to produce a photographic identification as proof of age and, if the young person, when so required, fails to produce satisfactory proof that he has attained the age of eighteen years, the licensed person or his representative shall refuse service and require the young person to leave the licensed premises.

(4) Any person below the age of 18 who on being asked by a police officer or, for reasonable cause, by a licensed person, to leave a licensed premises or produce evidence that he is 18 years or older—

- (a) fails to leave the licensed premises; or
- (b) produces any photographic identification that has been altered or is false,

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

(5) It shall be a defence for a person charged with an offence under paragraph (f) of subsection (1) or under subsection (2) to prove that he believed, and had reasonable grounds to believe that the person under the age of eighteen years was eighteen years of age or older.

(6) A person found guilty of an offence under paragraph (f) of subsection (1) or subsection (2) shall be liable on summary conviction to a fine not exceeding ten thousand dollars.

[Section 40 amended by 1998:9 effective 15 May 1998; Section 40 subsection (4) repealed and replaced by 2010 : 29 s. 5 effective 1 June 2010]

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Restrictions on consumption of intoxicating liquor in or near premises operated under a Licence (A)

41 Where, having purchased intoxicating liquor from the holder of a Licence (A) or his servant or agent, a person consumes the liquor—

- (a) in the licensed premises; or
- (b) in premises which adjoin or are near the licensed premises and which belong to the holder of the licence or under his control or used with his permission,

then, that person and the holder of the licence, if the consumption is with the knowledge and consent of the holder of the licence or of his servant or agent, commits an offence:

Punishment on summary conviction: a fine of \$300.

Procuring drink for drunken person or minor

42 (1) If any person in licensed premises procures intoxicating liquor for consumption by a drunken person or by a person under the age of eighteen years he commits an offence.

(2) If any person aids a drunken person or a person under the age of eighteen years in obtaining or consuming intoxicating liquor in licensed premises he commits an offence.

(3) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding two hundred dollars:

Provided that it shall be a defence to any charge under this section of procuring intoxicating liquor for consumption by a person under the age of eighteen years for the person charged to prove that he believed and had reasonable grounds for believing that the person under the age of eighteen years was eighteen years of age or older.

[Section 42 amended by 1998:9 effective 15 May 1998]

False evidence of age

42A *[Repealed by 2010 : 29 s. 6.]*

[Section 42A repealed by 2010 : 29 s. 6 effective 1 June 2010]

Persons found on licensed premises outside permitted hours

43 (1) Where a person is found on licensed premises outside the permitted hours or the period mentioned in section 31—

- (a) he shall, unless he proves that he is there for a lawful purpose, be guilty of an offence; and
- (b) the licensed person if, himself or by his servant or agent, he permits that person to be there and does not prove that he is there for a lawful purpose commits an offence:

Punishment on summary conviction: a fine of \$300.

(2) Where, on being asked by a police officer for the name and address, a person found on licensed premises outside the permitted hours or such period as aforesaid—

- (a) refuses to give them; or
- (b) gives a false name or address; or
- (c) refuses to answer satisfactorily any question put to him to ascertain the correctness of the name or address given,

he commits an offence:

Punishment on summary conviction: a fine of \$100.

(3) A police officer may arrest without warrant any person whom he, with reasonable cause, suspects of having committed an offence under subsection (2).

PART V

MISCELLANEOUS AND GENERAL

Inspection of licensed premises by Commissioner of Police

44 It shall be the duty of the Commissioner of Police to inspect every licensed premises at least once in every six months and to report in writing to the chairman at each regular annual meeting whether, in his opinion, such licensed premises are or are not being used or maintained in accordance with this Act.

Power of police to enter licensed premises, etc

45 (1) Any police officer when on duty may, for the purpose of preventing or detecting the commission of any offence against this Act, at all times enter any licensed premises, or any restaurant, eating house, dance hall, or place of public entertainment in respect of which no licence is in force, and may remain on such premises for so long as he may deem necessary for the carrying out of his duties.

(2) If any person, himself or by his servant or agent, or any other person acting with his knowledge or consent, fails or unreasonably delays to admit a police officer demanding to enter in pursuance of this section, he commits an offence:

Punishment on summary conviction: a fine of \$200.

(3) In any proceedings for an offence under this section the burden of proving that any delay in admitting was reasonable shall lie upon the defendant.

Powers of search

46 (1) Any magistrate having reason to believe, from the information or evidence upon oath of any credible person, that an intoxicating liquor is being unlawfully sold or kept for sale in any premises which are not licensed premises may issue a warrant to any police officer, authorizing him, with or without assistants, to enter and search those premises at any hour by day or night, for the purpose of ascertaining whether an offence under this Act is being or has been committed.

(2) If, upon such search, any intoxicating liquor is found in such quantities or under such circumstances as to satisfy the police officer that it is kept for the purpose of unlawful sale, then he, and any person assistant to him, shall seize and carry away or otherwise secure the intoxicating liquor.

(3) If upon a hearing before a court of summary jurisdiction the court adjudges and determines that such intoxicating liquor has been kept for the purpose of unlawful sale, then the court may adjudge the liquor to be forfeited.

(4) Intoxicating liquor adjudged to be forfeited shall be sold in such manner as the court shall direct and the net proceeds from such sales shall be paid into the Consolidated Fund.

(5) Before a hearing under subsection (3), every person who is, or who appears to the police officer to be the owner of such intoxicating liquor shall be summoned to appear at such hearing.

Obstruction of police officers

47 Any person who interrupts or obstructs any police officer while in the execution of any duty imposed on him, or any power conferred on him, by or under the authority of this Act, commits an offence:

Punishment on summary conviction: a fine of \$100.

Evidential provisions

48 The following provisions shall have effect in relation to any criminal proceedings taken under this Act—

- (a) the prosecution shall not be required to prove that the defendant, at the time of the offence charged, did not hold a licence, or a licence of any particular class; but the burden of proof of his having held such licence at such time, where relevant, shall be on the defendant, who shall be presumed to have held no licence at the time of the commission of the offence charged, in the absence of proof to the contrary;
- (b) for the purposes of paragraph (a) a certificate purporting to be signed by the chairman to the effect that any person did on any specified day hold a licence shall be sufficient evidence of the fact certified, in the absence of proof to the contrary;
- (c) evidence that a transaction in the nature of a sale of intoxicating liquor took place shall be evidence of the sale of the liquor without proof that money passed;
- (d) evidence that consumption of intoxicating liquor was about to take place shall be evidence of the consumption of intoxicating liquor without proof of actual consumption;
- (e) evidence that any person other than the licensed person or his servant or agent, consumed or intended to consume intoxicating liquor in the licensed

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premises shall be evidence that the liquor was sold to that person by the licensed person or his servant or agent;

- (f) where intoxicating liquor in open containers is found in any licensed premises, consumption of intoxicating liquor shall be deemed to have taken place in those premises, unless the contrary is proved.

Suspension or cancellation of licence

49 (1) On the conviction of a licensed person for an offence under this Act, he shall be liable, at the discretion of the court by which he is convicted and in addition to any punishment imposed or order made, to have his licence suspended or cancelled.

(2) Without prejudice to subsection (1) where the court suspends or cancels the licence of a licensed person it may further order that that person and any corporate body over which he exercises effective control shall be disqualified for obtaining a licence either absolutely or for such period as the court may determine.

Opening and closing of licensed premises

50 The holder of a licence is entitled to keep the licensed premises open or closed for business throughout the permitted hours on any day, or to keep them open or closed for business at any time during those hours on any day, as he deems fit.

[Section 50 repealed and replaced by 1998:9 effective 15 May 1998]

Power to close licensed premises on occurrence of riot etc

51 Any justice of the peace, when any riot or tumult occurs, or on credible information on oath that any riot or tumult is likely or is reasonably expected to occur, may order any licensed person or his servant or agent carrying on business at or near the place where such riot or tumult is occurring, or is expected to occur, to close his licensed premises and to keep the premises closed as long as the justice considers to be reasonably necessary for the preservation of the public peace; and such licensed person or his servant or other person on his behalf shall be bound to obey such order without any appeal therefrom, and if he neglects or fails to do so, he commits an offence:

Punishment on summary conviction: a fine of \$500.

Power of police to close licensed premises for a period not exceeding 24 hours

51A (1) A police officer of the rank of superintendent or above, may, upon reasonable belief that any serious disorder or threat to public safety has occurred, is likely to occur or is reasonably expected to occur on a licensed premises or near a licensed premises, order any licensed person, his servant or his agent carrying on business at or near the licensed premises where such serious disorder or threat to public safety has occurred, is likely to occur or is expected to occur, to close the licensed premises and any place of business of the licensed person, his servant or agent near the licensed premises, for a period not exceeding 24 hours, for the preservation of public peace.

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(2) A licensed person, his servant or agent who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

[Section 51A inserted by 2010 : 29 s. 7 effective 1 June 2010]

Maintenance of order at meeting of licensing authority

52 (1) If any person at any meeting of the licensing authority for the purpose of hearing applications for the grant or transfer of licences is guilty of any violent, offensive, disorderly or insulting conduct towards the licensing authority or any member thereof, or any other person present, or so as to disturb or impede the transaction of business, he commits an offence:

Punishment on summary conviction: a fine of \$50 , and it shall be lawful for the licensing authority to order and cause him to be excluded from the room or premises during such meeting; and it shall be the duty of any police officer present to enforce or assist in enforcing such order and to use such force as may be required for the purpose.

(2) If such person, after being excluded, returns into the room or premises during such meeting without the previous permission of the licensing authority, he commits an offence:

Punishment on summary conviction: a fine of \$100.

Prohibition of consumption, etc., of intoxicating liquor in unlicensed restaurant or place of entertainment, etc

53 (1) No person shall have or consume any intoxicating liquor in any restaurant, eating house, dance hall, or place of public entertainment in respect of which a licence is not in force.

(2) The proprietor, manager or person for the time being in charge, of any such restaurant, eating house, dance hall, or place of public entertainment who knowingly permits or allows any intoxicating liquor to be consumed in such premises commits an offence:

Punishment on summary conviction: a fine of \$200.

(3) Any other person having or consuming intoxicating liquor on such premises commits an offence:

Punishment on summary conviction: a fine of \$100.

Regulations

54 (1) The Minister, acting after consultation with the chairman, may make regulations prescribing—

- (a) the form of licences and permits granted under this Act;
- (b) the form of applications and notices required to be made or given under this Act; and
- (c) such other matters as he may deem necessary for the purposes of this Act.

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(2) The negative resolution procedure shall apply to regulations made under this section.

[Section 54 amended by 1998:9 effective 15 May 1998]

Communications or returns to or from the licensing authority

55 All communications or returns required by this Act to be made to the licensing authority shall be made to the chairman, and any communication or return required herein to be made by the licensing authority shall be made by the chairman.

Returns of convictions to the chairman of the licensing authority

56 Any court which convicts any licensed person of any offence against this Act, shall make a written return of such conviction to the chairman within seven days thereafter on a form approved by the chairman.

Annual report

56A (1) The chairman shall as soon as may be after the end of the licensing year make a report to the Minister on the work of the licensing authorities during that year.

(2) Every such report—

- (a) shall state the number of applications that were made during that year for the grant of licences;
- (b) shall contain a review of the objections or complaints made during that year, whether made under section 12 or otherwise, to any licensing authority; and
- (c) may contain such other information about, or comments on, the work of the licensing authorities during that year as the chairman may think fit to include in the report.

(3) The Minister shall cause a copy of every report that is made to him under subsection (1) to be laid before each House of the Legislature within a reasonable time.

(4) The expression “the licensing year” in subsection (1) means the year described in subsection (1) of section 16.

[Section 56A inserted by 1998:9 effective 15 May 1998]

Repeal of No. 41 of 1936

57 *[omitted]*

Amendment of statutory provisions in Fourth Schedule

58 *[omitted]*

Commencement

59 *[omitted]*

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Transitional provisions
60 *[omitted]*

FIRST SCHEDULE

(Section 2(3))

Activities unaffected by section 2(1)

1 The sale of intoxicating liquor on the licensed premises, during such period as the licensing authority may allow—

- (i) by the executor or administrator of a deceased licensed person; or
- (ii) by the receiver, appointed under section 54 of the Mental Health Act 1968 [*title 11 item 36*] for a licensed person; or
- (iii) by the legal representative of a licensed person who has been admitted to a hospital for the treatment of a mental disorder; or
- (iv) by the trustee of a licensed person who has become bankrupt; or
- (v) by an auctioneer or agent authorized in writing to effect such sale by a legal executor, administrator, receiver, legal representative or trustee.

[Paragraph 1 amended by 1998:32 effective 13 July 1998]

2 The sale by an executor or administrator of any deceased person who was not a licensed person, or any auctioneer or agent authorized in writing by him, of intoxicating liquor which belonged to such deceased person.

3 The sale, with the written permission of the chairman of the licensing authority, of intoxicating liquor by any person, or by the agent of any person authorized by him in writing, to a licensed person or to a mess:

Provided that the chairman of the licensing authority may in his absolute discretion, and without assigning any reason, refuse to grant an application for a permit under this paragraph, and, without prejudice to the generality of the foregoing power to refuse such an application, shall not grant such an application unless he is satisfied that the intoxicating liquor intended to be sold is bona fide a part of the household stores of the person by or on whose behalf the application is made and was not acquired by him for the purposes of resale.

4 The sale of intoxicating liquor by virtue of any legal process or order of any court authorizing the sale.

5 The sale in any mess of intoxicating liquor of any kind to any person belonging to Her Majesty's Forces or to any member of any mess or to any bona fide invited guest of such mess at any entertainment approved by the Commanding Officer.

6 The sale of methylated spirits or wood alcohol, or of spirits made up in wood alcohol or of spirits made up in medicine.

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7 The sale of intoxicating liquor aboard any ocean-going ship to any passenger or member of the ship's company.

8 The sale, under the authority of a permit issued by the licensing authority, of intoxicating liquor on premises occupied by the Bermuda Sailor's Home, and subject to such terms and conditions as the licensing authority may impose.

9 The sale in any police mess of intoxicating liquor to members of the mess in accordance with any rules or orders that may be made or issued by the Commissioner of Police.

10 *[deleted]*

11 *[deleted]*

12 The sale of intoxicating liquor, whether with or without further payment, to passengers of any vessel (other than an ocean-going ship) operating pleasure cruises or charters from Bermuda under the authority of an island boat liquor permit issued annually by the licensing authority under this paragraph (provided that any such sale shall take place either on board the vessel or on land in private occupation which is contiguous to the high water mark) and subject to such conditions (including conditions as to the hours during which intoxicating liquor is permitted to be sold) as the authority may specify in the permit.

The annual fees for the issue of an island boat liquor permit under this paragraph are—

where the vessel is licensed under the Marine Board (Island Boats) Regulations 1965 *[title 22 item 3(j)]*—

to carry not more than 10 passengers: \$60.00

to carry not more than 50 passengers: \$180.00

to carry not more than 100 passengers: \$300.00

to carry more than 100 passengers: \$360.00

[Paragraph 12 amended by 1990:11 effective 1 April 1990 and by 1990:55 effective 17 July 1990]

13 The sale of intoxicating liquor to guests of the Bermuda Hotel and Catering College in accordance with any rules or orders that may be made or issued by the Minister of Education.

14 The sale of intoxicating liquor to members of a members' club, and to members of the public of the age of 18 years or over, during any activity at the club's premises, or upon

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the grounds of the club, being an activity *bona fide* conducted by, and solely for the benefit of, the club.

[Paragraph 14 added by 1989:63 effective 2 January 1990; First schedule amended by 1998:9 effective 15 May 1998]

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SECOND SCHEDULE

Class of Licence	Fee
Licence (A):	\$1,500
Restricted Licence (A):	\$750
Licence (B):	\$875
Hotel Licence:	
(a) where sleeping accommodation is provided for not less than 30 but not more than 100 guests:	\$1,000
(b) where sleeping accommodation is provided for more than 100 guests but not more than 300 guests:	\$2,000
(c) where sleeping accommodation is provided for more than 300 guests:	\$3,000
Night Club Licence:	\$3,000
Restaurant Licence:	\$1,000
Proprietary Club Licence:	\$750
Members' Club Licence:	\$375
Tour Boat Licence:	
where the boat is licensed under the Marine Board (Island Boats) Regulations 1965—	
to carry not more than 50 passengers	\$180
to carry not more than 100 passengers	\$300
to carry more than 100 passengers	\$360

[Second Schedule fees amended by 1990:11 effective 1 April 1990; and by 1998:9 effective 15 May 1998]

THIRD SCHEDULE

(Section 30)

PERMITTED HOURS

Class of Licence	Weekdays	Sundays/ Good Friday/ Christmas Day
Licence (A)	8:00 a.m.-9:00 p.m.	None
Restricted Licence (A)	8:00 a.m.-10:00 p.m.	None
Licence (B)	10:00 a.m.-10:00 p.m.	None
Hotel Licence	9:00 a.m.-3:00 a.m.	9:00 a.m.-3:00 a.m.
Restaurant Licence	9:00 a.m.-3:00 a.m.	9:00 a.m.-3:00 a.m.
Night Club Licence	None	Noon-3:00 a.m.
Proprietary Club Licence	10:00 a.m.-1:00 a.m.	Noon-1:00 a.m.
Members' Club Licence	All hours	All hours
Tour Boat Licence	All hours	All hours

A reference in this Schedule to a time after midnight at which permitted hours end is a reference to that time on the morning of the day following the day on which the permitted hours commenced.

[Third schedule repealed and replaced by 1998:9 effective 15 May 1998]

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FOURTH SCHEDULE

[omitted]

[This Act was brought into operation on various dates between 1 December 1974 and 1 April 1975]

[Assent Date: 29 July 1974]

[Amended by:

1975 : 46

1977 : 35

1988 : 15

1989 : 63

1990 : 11

1990 : 55

1997 : 24

1997 : 37

1998 : 9

1998 : 32

2001 : 20

BR 30 / 2002

BR 67 / 2007

2010 : 29]