

PART IV - LICENCES

17. Classes of licences – The Liquor Board may issue licences of the following classes:

- (a) wholesale licence;
- (b) retail licence;
- (c) food and beverage licence;
- (d) bar licence;
- (e) night club licence;
- (f) temporary licence;
- (g) manufacturing licence subject to Part VII;
- (h) importation licence subject to Part VIII;

18. Wholesale licence - A wholesale licence authorises the licensee to sell liquor wholesale in sealed containers during prescribed times or at times set out in the licence for consumption away from licensed premises.

19. Retail sale licence – (1) A retail sale licence authorises the licensee to sell liquor to the general public in sealed containers during prescribed times or at times set out in the licence for consumption away from the licensed premises.

(2) Without limiting the generality of section 67 regulations may be made for a retail sale licence prohibiting the licensee from selling liquor of a prescribed kind.

20. Food and beverage licence – A food and beverage licence authorises the licensee to sell liquor during prescribed times or at times set out in the licence as ancillary to a meal consumed at the licensed premises. Provided that such liquor is not removed from, or taken off the licensed premises.

21. Bar licence – (1) A bar licence authorises the licensee to sell liquor during prescribed times or at times set out in the licence for consumption on the premises.

(2) Regulations may provide that a bar licence does not authorise the licensee to sell liquor of a prescribed kind.

(3) The Board shall not issue a bar licence to any applicant whose premises is situated within 50 metres of a hospital, church or school.

22. Night Club licence – (1) A Night Club licence authorises the licensee to sell liquor during prescribed times or at times set out in the licence for consumption on the premises.

(2) Regulations may prohibit the licensee of a night club licence from selling liquor of a prescribed kind.

(3) The Board shall not issue a night club licence to any applicant whose premises are situated within 50 metres of a hospital, church or school.

23. Temporary licence – (1) A temporary licence authorises the licensee to import and sell liquor during limited times set out in the licence for consumption in an area specified in the licence.

(2) Regulations may prohibit in the temporary licence the licensee from selling liquor of a certain kind.

24. Application for a licence – (1) An application for the issue of a licence under this Act must be made to the Secretary and accompanied by the approved fee.

(2) The applicant must provide:

- (a) the name and address of the applicant; and
- (b) the details of the premises to be licensed; and
- (c) information concerning any criminal conviction of the applicant; and
- (d) a valid business licence except where the application is for a temporary licence under section 23; and
- (e) any other information as prescribed or that the Secretary considers that the Board may require.

(3) If any of the details provided by the applicant is false, misleading, defective in any particular, or if any document delivered is not genuine, false or misleading, the applicant commits an offence and is liable upon conviction to pay a fine not exceeding 20 penalty units and the applicant's licence is automatically cancelled.

25. Secretary may require further information – (1) The Secretary may, by notice in writing, require an applicant for a licence, to do one or more of the following things:

- (a) provide, in accordance with directions in the notice, such information verified by statutory declaration as is relevant to the investigation of the application and is specified in the notice; or
- (b) produce, in accordance with directions in the notice, such records as are relevant to the investigation of the application and permit examination of the records, the taking of extracts from them and the making of copies of them; or
- (c) furnish to the Secretary such authorities and consents as the Secretary requires for the purpose of obtaining information (including financial and other confidential information) from other persons concerning the applicant.

(2) The Board may refuse to consider or decline an application for a licence if a requirement made under this section in relation to the application is not complied with.

26. Matters to be considered in deciding on an application for a licence –

(1) For the purposes of making a decision in relation to an application for a licence, the Board may consider the following matters:

- (a) whether the applicant is a fit and proper person to hold a licence; and
- (b) whether it is appropriate to grant the liquor licence for premises in that area; and
- (c) whether the premises in relation to which the licence is sought are fit and proper premises for the purpose of the licence; and
- (d) the applicant's understanding of the obligations of a licensee under this Act; and
- (e) whether the applicant has contravened a provision of this Act; and
- (f) where applicable, the views of the Alii and Faipule of the village where the premises are to be situated; and
- (g) any objections to the application for a licence; and
- (h) the public interest.

(2) A licence may not be granted to an applicant who has been convicted of a serious offence.

(3) A person may object to the grant of a licence on one or more of the following grounds:

- (a) that the applicant is not a fit and proper person to be the holder of a licence; or
- (b) that it is not appropriate to grant the liquor licence for premises in that area; or
- (c) that for other reasons it would not be in the public interest to grant the licence.

(4) Where objections to the grant of the licence have been made, the Secretary shall inform the applicant of the nature of those objections and provide the applicant with an opportunity to respond.

27. Grant of licence to sell liquor – (1) Subject to subsection (2), the Board may issue or decline a licence after considering:

- (a) the issues referred to in section 26(1); and
- (b) any objections made in relation to the application made under section 26(3); and
- (c) any response made to those objections by the Applicant.

(2) The Board shall not issue a licence to an applicant if the approved fees have not been paid.

28. Duration of licence – A licence comes into force on the date nominated 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 31st of December of the year of its issue.

29. Renewal of licences – (1) Applications for renewal of licences granted under sections 27, 55 and 60 of this Act shall be made at least 1 month prior to their expiration and shall be made in the approved form.

(2) In deciding whether to renew a licence granted under Section 27, the Board shall take into account the matters set out in section 26.

(3) In deciding whether to renew a licence granted under section 55, the Board shall take into account the matters set out in section 54.

(4) In deciding whether to renew a licence granted under section 59, the Board shall take into account the matters set out in section 58.

(5) The Board shall not renew a licence to an Applicant if the approved fees have not been paid.

(6) A licensee is not liable for prosecution for failing to hold a licence if the licensee:

- (a) made proper application for renewal within 30 days of expiry of the licence; and
- (b) accompanied the application for renewal with a late application fee of \$200 or other prescribed fee; and
- (c) subsequently received renewal of that licence.

30. Conditions attached to a licence – (1) The Board may impose conditions not inconsistent with this Act to which the licence is to be subject.

(2) A licence is subject to any conditions imposed under subsection (1), whether or not any such condition is endorsed on the licence.

(3) Without limiting this section, a condition can be imposed by the Board:

- (a) setting the times during which liquor can be sold or consumed at the licensed premises; or
- (b) setting restrictions on how liquor can be sold from the premises; or
- (c) setting restrictions on the maximum number of persons who can be in the premises at any time; or
- (d) setting restrictions on noise at the licensed premises; or
- (e) setting the times the licensed premises may open or close.

(4) The Board may vary or revoke a condition of a licence at any time.

31. Employment of security staff at licensed premises –It is a condition of a bar and night club licence that the licensee must employ persons as security staff who:

- (a) are of good character and standing; and
- (b) have not been convicted of a serious offence; and
- (c) have undertaken relevant training in security work.

32. Signs required in licensed premises – (1) It is a condition of a licence that the licensee shall at all times:

- (a) prominently display at each entrance to the licensed premises a sign in the approved form that sets out:
 - (i) the restriction on the sale of liquor to, and the consumption of liquor by, persons under the age of 21 years;
 - (ii) the restriction on the sale of liquor on Sundays and other days as specified by the Board from time to time; and
 - (iii) opening and closing hours for the licensed premises; or
- (b) prominently display at all entrances to the premises such other signs as the Board may require; and
- (c) where the licensed premises is a bar or nightclub, prominently displaying at each entrance, a sign prohibiting the entrance of a person under the age of 21.

(2) This section does not apply to a licensee of a food and beverage licence provided the selling and consumption of liquor by a person under the age of 21 is under the supervision of an attending parent.

(3) This section does not apply to a licensee of a manufacturing licence.

33. Keeping records - It is a condition of a licence that a licensee keep accurate records of all liquor acquired and held for sale by the licensee and must make those records available for inspection by the Board, liquor inspector or a police officer.

34. Transfer of a licence – (1) A licensee may not transfer a licence under this Act except with the prior written approval of the Board.

(2) The Board may attach conditions to an approval given for the purposes of subsection (1).

35. Alteration and relocation of licensed premises – (1) Where a licensee physically alters the structure of the licensed premises and the alteration does not comply with the current licence conditions, that licence is regarded as null and void..

(2) A licence held by a licensee shall not apply to new or relocated premises of the same licensee.

(3) A licensee must apply and obtain a new licence once the licensed premises is altered, if applicable or relocated.