

2011

*Liquor*

No. 13

**SAMOA**

39. Conditions for

**PART I**  
**PRELIMINARY**

**1. Short title and commencement-**(1) This Act may be cited as the Liquor Act 2011.

(2) This Act commences on a date to be nominated by the Minister.

**2. Interpretation-**(1) In this Act, unless the context otherwise requires:

adulterated liquor means any liquor:

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

Alii and Faipule means the customary titleholders who:

- (a) hold matai titles registered in the Register of Matais established and kept under section 22 of the Land and Titles Act 1981; and
- (b) reside or have title or an interest to land in the immediate area surrounding the land upon which an application for licensed premises is made.

appointed member means a member of the Board appointed under section 7(1);

approved fee means the fee approved by the Minister by notice issued to that effect;

approved form means a form approved by the Minister to be used under this Act;

Board means the Liquor Control Board established under section 5;

Chief Executive Officer means the Comptroller of Customs authorised under s



**3. Object of this Act** - The object of this Act is to promote and encourage responsibility in the manufacture, import, sale and consumption of liquor through the establishment of a scheme of liquor licences.

**4. Act to bind the Government** - This Act binds the Government.

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**PART II**  
**ADMINISTRATION**

**5. Continuation of the Board** The Liquor Control Board established under section 3 of the Liquor Act 1971 is continued under this Act and operates and is managed in accordance with this Act.

**6. Functions and powers of the Board** - The Board has the following function773 0 0 12 426.96 460:uNI0 12 151.2 447.12 Tm [(f)33.43v9(er)-4.84651(s)

(b)



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(3) In this section, public place includes the following, other than during the course of an official function lawfully held thereon:

- (a) any road, street, footpath, alley, sea wall or any thoroughfare of a public nature;
- (b)

**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) Regulations may be made to prohibit a licensee of a retail sale licence 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 licensed premises.

(2) Regulations may be made to prohibit a licensee of a bar licence from selling liquor of a prescribed kind.

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

**22. Nightclub licence-**(1) A nightclub licence authorises the licensee to sell liquor during prescribed times or at times set out in the licence for consumption on the prescribed premises.

(2) Regulations may be made to prohibit a licensee of a nightclub licence from selling liquor of a prescribed kind.

(3) The Board shall not issue a nightclub licence to an applicant whose premises are situated within 50 metres of a hospital, church or school, provided that the applicant's premises was erected at a time after the hospital, church or school was erected.

**23. Temporary licence-**(1) A temporary licence authorises the licensee to import and sell liquor during limited times set

liquor must include the following, be addressed to the secretary, and be accompanied by the approved fee:

- (a) the name and address of the applicant;
  - (b) the details of the premises to be licensed;
  - (c) information concerning any criminal conviction of the applicant;
  - (d) a valid business licence except where the application is for a temporary licence under section 23;
  - (e) any other information as prescribed or that the secretary considers that the Board may require.
- (2) The Board shall not consider an application for the issue of a

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

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- (a) that the applicant is not a fit and proper person to be the holder of a licence;
  - (b) that it is not appropriate to grant the liquor licence for premises in that area;
  - (c) that for other reasons it would not be in the public interest to grant the licence.
- (3) Where objections to the grant of a wholesale licence, a retail sale licence, a food and beverage licence, a bar licence, a nightclub licence, or a temporary licence have been made, the
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(3) Except as approved by the Board, the sale of liquor on Sunday is prohibited and is accordingly a condition of a wholesale licence, a retail sale licence, a food and beverage licence, a bar licence, a nightclub licence, and a temporary licence. Without limiting this section, the Board may impose conditions setting out one (1) or more of the following:

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

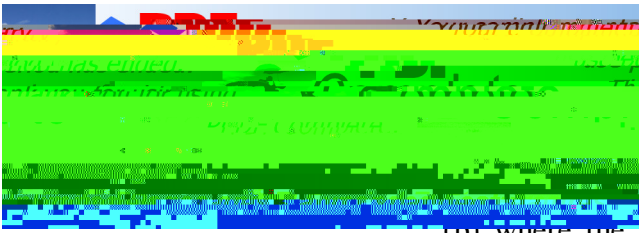
(4) The Board may vary or revoke a condition of a wholesale licence, a retail sale licence, a food and beverage licence, a bar licence, a nightclub licence, or a temporary licence at any time.

**31. Employment of security staff at licensed premises** - It is a condition of a bar license and a nightclub 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) Subject to subsections (2) and (3), it is a condition of a licence that the licensee shall at all times:

- (a) prominently display atwc5w3 111252(r)-7.64e22.5693(he)-17.8218( )] TJ ET BT



(b) where the licensed premises is a bar or nightclub, prominently display at every entrance to the bar or nightclub, a sign prohibiting the entrance of a person under the age of 21.

(2) Subsection (1)(a)(i) does not apply to a licensee of a food and beverage licence, provided the selling to and consumption of liquor by a person under the age of 21 is under the supervision of an attending parent.

(3) Subsection (1) does not apply to a licensee of a licence to manufacture liquor.

**33. Keeping records** - It is a condition of a licence that a licensee must:

- (a) keep accurate records of all liquor acquired and held for sale by the licensee; and
- (b) make those records available for inspection by the Board, liquor inspector or a police officer.

**34. Transfer of a licence**-(1) A licensee must not transfer a licence issued under this Act except with the prior written approval of the Board.

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

**35. Alteration and relocation of licensed premises**-(1) A licence held by a licensee shall not apply to new or relocated premises of the same licensee.

(2) Where a licensee physically alters the structure of the licensed premises and the alteration does not comply with the current licence conditions, the licence is regarded null and void.

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

## **PART V** **IMPORT OF LIQUOR**

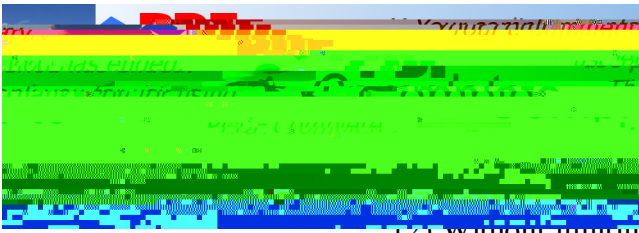
**36. Import of liquor**-(1) For the purpose of this section, spirituous liquor includes alcohol, low wines, feints and every other description of spirituous liquor.

(2) Subject to subsection (3), a person who imports liquor without a licence to import liquor issued under this Act or not in accordance with conditions of a licence to import liquor imposed under section 39, commits an offence and is liable to:

- (a) an immediate fine not exceeding 1 penalty unit; or







(2) without limiting the generality of this section, the Board may impose a condition to:

- (a) set the prescribed limits of alcohol for liquor that may be imported; or
- (b) set restrictions on how liquor may be imported.

(3) The Board may vary or revoke a condition of a licence to import liquor granted under this Part.

**40. Breach of conditions for a licence to import liquor -**

A licensee for a licence to import liquor who, without lawful excuse, breaches a condition of the licence commits an offence and is liable to imprisonment for a term not exceeding six (6) months or to a fine not exceeding 50 penalty units, or both.

**41. Minister may import liquor-**(1) The Minister, upon Cabinet approval and at the cost of the Ministry responsible for Finance on behalf of the Government, may purchase and import into Samoa such liquor, of such nature as the Minister thinks fit for sale or use in accordance with this Act.

(2) The Minister may delegate his or her power under subsection (1) to the Chief Executive Officer.

**PART VI**  
**MANUFACTURE OF LIQUOR**

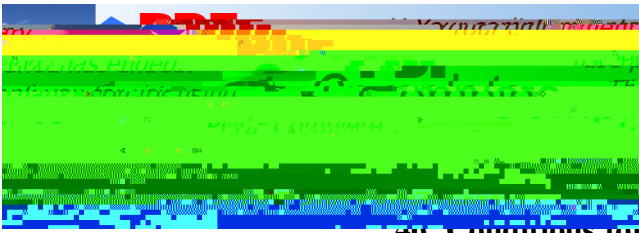
**42. Manufacture of liquor-**(1) A person may manufacture liquor only if the person is issued a licence under sections 17(h) and 45(1).

(2) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for a term not exceeding six (6) months or to a fine not exceeding 50 penalty units, or both.

(3) A person who is convicted for a second offence under subsection (1) shall be liable to imprisonment for a term not exceeding 12 months or to a fine not exceeding 100 penalty units, or both.

**43. Application for a licence to manufacture liquor-**(1) An application for the issue of a licence to manufacture liquor must be addressed to the secretary and accompanied by the approved fee.

- (2) The applicant must:
- (a) provide prescribed information and any other information that the secretary considers the Board may require; and
  - (b) provide a prescribed report from the Ministry responsible for Health; and
  - (c) provide the brewing methods and formula/formulae to be used by the manufacturer; and
  - (d) provide the qualifications of the brew master to be employed by the manufacturer.
- (3)



**46. Conditions for a licence to manufacture liquor-**(1) A licence to manufacture liquor granted under this Part is subject to:

- (a) conditions imposed by the Board not inconsistent with this Act, whether or not such conditions are endorsed on the license; and
  - (b) any other prescribed conditions.
- (2) Without limiting the generality of this section, a condition may be imposed by the Board to:
- (a) set the prescribed limits of alcohol for liquor that may be manufactured; or
  - (b) set restrictions on how liquor may be manufactured.
- (3) The Board may vary or revoke a condition of a license to manufacture liquor granted under this Part.

**47. Breach of conditions for a licence to manufacture liquor** - A licensee of a licence to manufacture liquor who, without lawful excuse, breaches a condition of the licence commits an offence and is liable to imprisonment for a term not exceeding six (6) months or to a fine not exceeding 50 penalty units, or both.

## **PART VII** **ENFORCEMENT, SUSPENSION, AND** **CANCELLATION OF LICENCES**

**48. Liquor inspector-**(1) The Chief Executive Officer may appoint one (1) or more employees of the Ministry to be a liquor inspector or liquor inspectors.

(2) The Chief Executive Officer may, upon the approval of the Board, issue to a liquor inspector an identity card containing the following:

- (a) liquor inspector s name;
- (b) recent photograph of the liquor inspector;
- (c) issue and expiry dates of the identity card.

**49. Powers of entry and inspection-**(1) A police officer or a liquor inspector may, at any time when the sale or manufacture of liquor is authorised by a licence, enter and inspect the prescribed premises in relation to which the licence was issued.

(2) Except for a dwelling place, if under the circumstances, an immediate search is required and there is no time to apply for a search warrant, the Minister may give approval in writing for a police officer or liquor inspector to enter and inspect any

premises at any time when there are reasonable grounds for suspecting that liquor is being sold or manufactured at the premises.

(3) A police officer or liquor inspector who enters a premise pursuant to this section may examine, take stock of, or take samples of any liquor on the premises or any other material that may be evidence of an offence under this Act.

(4) A police officer or liquor inspector who enters a premise pursuant to this section may examine and seize any records kept by the licensee, owner or occupant of the premise in relation to a matter that may be an offence.

(5) A police officer or liquor inspector who enters a premise pursuant to this section may seize any liquor in the premise which is not satisfactorily accounted for by any owner or occupant of the premise.

(6) A police officer or liquor inspector who enters a premise pursuant to this section may require the name, age and address of any person on the premise and upon such requirements the person must provide the required information.

(7) A liquor inspector who enters premises pursuant to this section is not entitled to remain on the premises if the liquor inspector does not produce his or her identity card on request by the occupier or licensee of the premises.

(8) A police officer or liquor inspector exercising the power of entry and inspection under this section must, within 72 hours after the inspection, submit to the Chief Executive Officer and to the secretary a report in writing stating the reason for and result of the inspection.

(9) A person who does not comply with subsection (6) commits an offence and is liable upon conviction to imprisonment for a term not exceeding three (3) months or to a fine not exceeding 25 penalty units, or both.

**50. Directions from the liquor inspector or police officer-**(1) If a liquor inspector or police officer r



- (c) any other matter the Board decides warrants a hearing.
- (2) A complaint may relate to more than one (1) licensed premises and a hearing convened in relation to the licensed premises may be extended to include any other licensed premises if the Board considers it appropriate.

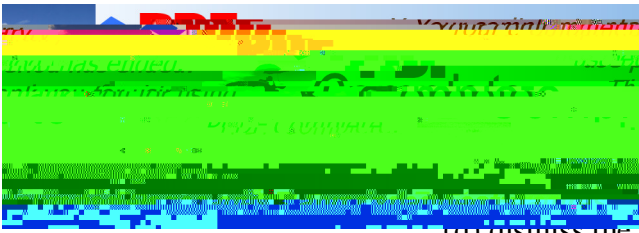
**53. Hearings in relation to complaints-**(1) Notice of the time and place for a hearing referred to in section 52(2) shall be given to all complainants and the licensee or licensees as directed by the Board.

(2) After giving each complainant and the licensee a reasonable opportunity to be heard in relation to the complaint, the Board may:

- (a) vary or revoke the conditions of the licence; or
  - (b) suspend the licence for a period, subject to section 54; or
  - (c) cancel the licence, subject to section 55; or
  - (d) take no action.
- (3) The conditions that may be imposed on a licence include, but are not limited to, conditions relating to:
- (a) noise abatement; or
  - (b) prohibition of the sale or supply of liquor between specified hours; or
  - (c) prohibition of or restriction on activities that could encourage misuse or abuse of liquor (such as excessive consumption of alcohol).

**54. Suspension of licence-**(1) The Board may suspend a licence if there are reasonable grounds to be satisfied that:

- (a) the licensee has contravened a provision of



(d) dismiss the matter.

(4) If it considers it appropriate to do so, the Board may by written notice given to the licensee extend the period of suspension for a further specified period but before taking such action, it must give the licensee a reasonable opportunity to be heard.

(5) For the purpose of subsection (3)(a), a period of suspension of a licence may be specified by reference to the happening of a specified event.

**55. Cancellation of licence-**(1) The Board may cancel a licence if it is in the public interest to do so.

(2) Without limiting subsection (1), in determining whether it is in the public interest to cancel a licence, the Board, must consider whether:

- (a) the licensee has contravened a provision of this Act;
- or
- (b) the licensee has contravened a condition of the licence; or
- (c) the licensee has been convicted of an offence under this Act; or
- (d) the circumstances of that contravention are such that the licence should be cancelled.

(3) In addition to the matters set out in subsection (2), the Board may consider:

- (a) whether the licensee is a fit and proper person to hold a licence; and
- (b) whether the licensed premises are fit and proper premises for the purposes of the licence; and
- (c) the nature of any complaints made to the Board in relation to the licensee; and
- (d) whether the licence has previously been suspended under this Act.

(4) Before cancelling the licence under subsection (1), the Board must convene a hearing at which the licensee must be given a reasonable opportunity to be heard.

## **PART VIII** **OFFENCES**

**56. Breach of licence conditions-**(1) A licensee who, without reasonable excuse, breaches a condition of the licence or a condition attached to an approval to transfer a licence,







nature, quality, strength, purity, composition, weight, origin, age or effects of the liquor contained in the container or of any ingredient or such liquor.

(2) The Minister may, by notice, declare a specified liquor product or class of liquor products to be an undesirable liquor product.

(3) A licensee who sells or permits to be sold on the licensed premises an undesirable liquor product commits an offence and is liable to imprisonment for a term not exceeding three (3) months or to a fine not exceeding 25 penalty units, or both.

**61. Failure to obtain Board approval to transfer licence** - A licensee who transfers a licence under this Act without the approval of the Board commits an offence and is liable to imprisonment for a term not exceeding three (3) months or to a fine not exceeding 25 penalty units, or both.

**62. Cleanliness and maintenance etc of licensed premises**-(1) A licensee who does not keep the licensed premises in a clean condition or maintain the premises and all equipment, appliances, fittings and furniture in the premises in good condition commits an offence and is liable to a fine not exceeding 10 penalty units.

(2) A licensee who alters the physical structure of the licensed premises and does not apply for the required licence pertaining to the structure of the changed premises, commits an offence and is liable to a fine not exceeding 10 penalty units.

(3) The holder of a licence who relocates without a licence for the relocated premises and sells liquor at such premises commits an offence and is liable to a fine not exceeding 10 penalty units.

**63. Licensee liable for act of employee** - Where, in contravention of this Act, a servant, agent or employee of the licensee or the manager of licensed premises, or a person acting, or purporting to act, on behalf of the licensee or the manager of licensed premises, sells or supplies liquor on the premises to which the licence relates, the licensee or manager of the licensed premises is guilty of an offence and liable to the

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

**PART IX**  
**MISCELLANEOUS**

**65. Forfeiture of alcohol** - On the conviction of any person for an offence against this Act, the Court may in addition to any other penalty imposed or order made, declare that any liquor seized under this Act and in respect of which the person is convicted, be forfeited to the Government to be sold, destroyed or

