



*Tonga*

# **MANUFACTURE OF INTOXICATING LIQUOR ACT**

**Chapter 28.16**

**2016 Revised Edition**





# MANUFACTURE OF INTOXICATING LIQUOR ACT

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# MANUFACTURE OF INTOXICATING LIQUOR ACT

## AN ACT RELATING TO THE MANUFACTURE AND DISTILLATION OF INTOXICATING LIQUORS<sup>1</sup>

Commencement [14th October, 1942]

### 1 Short title

This Act may be cited as the Manufacture of Intoxicating Liquor Act.

### 2 Interpretation

In this Act unless the context otherwise requires —

“**intoxicating liquor**” means any liquid which contains more than two per cent. of proof spirit and includes any spirituous or fermented liquor;

“**proof**” means of the strength of proof as ascertained by Sike’s hydrometer.

### 3 Manufacture or distillation of intoxicating liquor

Subject to section 4 any person who —

- (a) shall make or distil or aid or assist or be otherwise concerned in making or distilling any intoxicating liquor;
- (b) shall knowingly supply any materials for making or distilling any intoxicating liquor to any person other than a manufacturer licensed under this Act;

- (c) shall have in his possession or custody any intoxicating liquor made or distilled in the Kingdom by any person other than a manufacturer licensed under this Act; or
- (d) shall convey or conceal, or aid or assist in conveying or concealing, or upon whose premises shall be found any intoxicating liquor made or distilled in the Kingdom by any person other than a manufacturer licensed under this Act,

shall be guilty of an offence.<sup>2</sup>

#### **4 Licence to manufacture intoxicating liquor**

- (1) The Minister of Police may, with the consent of the Cabinet, issue a licence to manufacture, and sell wholesale, intoxicating liquor, such licence to be granted on terms and conditions approved by the Privy Council.<sup>3</sup>
- (2) A breach of the above terms and conditions shall be an offence against this Act.<sup>4</sup>

#### **5 Determination of percentage of alcohol**

In any proceedings under this Act a certificate purporting to be signed by the Chief Executive Officer for Health or any person authorized in that behalf by him, stating the percentage of alcohol contained in any liquid submitted for his examination, shall be admissible in evidence.

#### **6 Burden of proof**

In any prosecution for an offence under this Act, an averment in the summons that —

- (a) any liquid the subject of the prosecution is intoxicating liquor; or
- (b) that any intoxicating liquor the subject of the prosecution was made or distilled in the Kingdom,

shall be *prima facie* evidence of the facts so averred.<sup>5</sup>

#### **7 Powers of police**

- (1) It shall be lawful for any police officer to enter upon any premises, other than the premises of a manufacturer licensed under this Act, which there is reason to believe are being used for the purposes of making or distilling intoxicating liquors or whereon there is reason to believe there are any machinery, materials, implements or utensils, used in the process of making or distilling intoxicating liquors, or any intoxicating liquor made or distilled in the Kingdom, and seize any such articles.<sup>6</sup>

- (2) Any police officer may use such force as may be necessary to effect the entry and make the seizure authorized by this section.

### **Obstruction and bribery**

- (3) Any person who shall obstruct or resist any police officer in the exercise of any power given to him by this section or who shall offer him any bribe or endeavour in any way to induce him to abstain from so exercising his power shall be guilty of an offence.

## **8 Destruction of articles seized**

Any articles seized under section 7 of this Act shall be forfeited and shall be destroyed in such manner as the Minister of Police may direct.

## **9 Penalty**

Any person found guilty of an offence against any of the foregoing sections of this Act shall be liable upon conviction by a Magistrate to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$500 or to both such imprisonment and such fine.<sup>7</sup>

## **10 Offences relating to minors**

- (1) Any person over the age of 18 years who sells or supplies or allows to be sold or supplied to any person under 19 years of age any intoxicating liquor the manufacture of which is an offence against section 3(a) shall be guilty of an offence and shall be liable to a fine not exceeding \$1,000 or not exceeding 5 years' imprisonment or both such fine and imprisonment.
- (2) Any person who consumes any liquor such as is mentioned in subsection (1) hereof in the presence of a person under 18 years of age shall be guilty of an offence and liable to punishment as provided in section 9 of this act.
- (3)<sup>8</sup>
  - (a) A person imprisoned under subsection (1) of this section may be prohibited from teaching or working in any school or educational establishment in the Kingdom for a period not exceeding 5 years from the date of his conviction;
  - (b) A person convicted under subsection (2) of this section may be put under such a prohibition as set out in paragraph (a) for not more than 2 years;
  - (c) Any person who breaches a prohibition imposed under paragraph (a) or (b) shall be liable to a fine of \$100 or one year's imprisonment or to both such fine and imprisonment.

- (4) Any male person under the age of 18 years who is convicted of an offence against section 3 of this Act shall be liable to a maximum of 10 strokes with a light rod or cane. The whipping shall be administered by a police officer and the father or guardian of such person may attend.<sup>9</sup>

## **11 Rules**

- (1) The Cabinet may make, alter, add to or revoke rules for carrying into effect the provisions of this Act, for prescribing fees payable for licences and forms to be used and generally respecting all matters incidental to the working of this Act.<sup>10</sup>
- (2) By such rules there may be imposed in respect to the breach of any of them a penalty not exceeding the sum of \$100.<sup>11</sup>



**ENDNOTES**

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<sup>1</sup> **1988 Revised Edition, Cap. 85** — Acts 18 of 1942, 14 of 1944, 8 of 1952, 3 of 1959, 22 of 1981, 15 of 1986, 23 of 1988, 40 of 1988, 46 of 1988

Amended by **Act 42 of 2010**, commencement 24 November 2010

<sup>2</sup> Amended by Act 15 of 1986

<sup>3</sup> Inserted by Act 15 of 1986; Amended by Acts 40 of 1988 and 42 of 2010

<sup>4</sup> Inserted by Act 40 of 1988

<sup>5</sup> Substituted by Act 3 of 1959

<sup>6</sup> Amended by Acts 3 of 1959 and 15 of 1986

<sup>7</sup> Substituted by Act 8 of 1952 and Amended by Acts 22 of 1981, 23 of 1988 and 40 of 1988

<sup>8</sup> Amended by Act 46 of 1988

<sup>9</sup> Inserted by Act 22 of 1981

<sup>10</sup> Amended by Act 42 of 2010

<sup>11</sup> Inserted by Act 40 of 1988