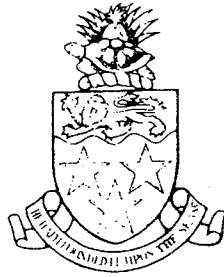


CAYMAN ISLANDS



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**THE LIQUOR LICENSING LAW, 1985
(LAW 8 OF 1985)**

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Law 8 of 1985

I Assent

PETER LLOYD

Governor

12 April, 1985

**A LAW TO REPEAL AND REPLACE THE
LIQUOR LICENSING LAW (REVISED)**

ENACTED by the Legislature of the Cayman Islands.

Short title.

1. This Law may be cited as the Liquor Licensing Law, 1985.

Interpretation.

2. In this Law, unless the context otherwise requires -

“applicant” means a person making an application;

“application” means an application made under section 12 to obtain a new licence or vary an existing licence or an application made to renew an existing licence;

“authorisation” means an authorisation granted under section 19 (1) to sell intoxicating liquor on a special occasion;

“authorised person” means a person authorised under section 19 (1);

“bar” means an area designated in a licence under section 7 (4);

"Board" means a Liquor Licensing Board continued under the old Law by virtue of section 4 and references to the Board shall be interpreted as meaning the Board for the appropriate Licensing District;

"Board member" means a member of a Board nominated under either section 4(3), 4(4) or 4(8);

"Chairman" means the Chairman of a Board appointed under either section 4 (3) or 4 (4) and references to the Chairman shall be interpreted as meaning the Chairman of the Board for the appropriate Licensing District;

"Commissioner" means the Commissioner of Police and every person acting under his authority;

"dispose" includes sell, barter, exchange, give, supply, deliver or otherwise pass or allow to pass into the control of some other person for value; and any disposal of intoxicating liquor shall be presumed to be for value and in pursuance of a sale, unless the circumstances under which the disposal is made negative such presumption;

"Governor" means the Governor in Council;

"hotel" means any building or series of buildings within the same curtilage containing not less than ten bedrooms for the accommodation for reward of guests, together with the curtilage thereof and all other buildings and structures within such curtilage, not being a strata lot or an apartment house;

"intoxicating liquor" includes every description of potable spirits, wines, beer, ale, porter, stout, cider, perry and other malt liquor;

"licence" has the meaning ascribed to it in section 7 (1) and the seven categories of licences as set out in section 10 (1) shall have the meaning ascribed to them by section 10 (2);

"licensee" has the meaning ascribed to it in section 7 (2) and for the purpose of responsibility for compliance and liability for non-compliance with this Law includes every employee and person acting under the general control of such licensee on or about the relevant premises;

"licensed premises" has the meaning ascribed to it in section 7 (3) and includes every building or place in respect of which a licence is in being;

Law 11 of 1974.

"licensing session" shall mean a licensing session of the Board being either an annual session held pursuant to section 6(1) or a quarterly session held pursuant to section 14 (1);

"old Law" means the Liquor Licensing Law, 1974, (as amended) repealed by this Law;

"permitted hours" has the meaning ascribed to it in section 11 (3);

"prohibited hours" means hours other than permitted hours;

"proof" means, in relation to distilled alcoholic liquor, a mixture of alcohol and water having a specific gravity of 0.91984 and containing 0.495 of its weight, or 0.5727 of its volume, of absolute alcohol;

Law 15 of 1976.

"Port Authority" means the body corporate established by section 3 of the Port Authority Law;

"revenue officer" means any person employed in the enforcement of the law relating to Customs;

"sea-going vessel" means a vessel approved by the Port Authority as being a suitable vessel for the purposes of section 7 (6);

"specified hours" has the meaning ascribed to it in section 11 (2); and

"spirits" includes every description of brandy, vodka, gin, whisky, rum, liqueurs and cordials, whether or not mixed with other fluid, and includes bay rum, but does not include malt liquor, wine, methylated spirit, or any spirit which is perfumed or otherwise treated and is used and described for purposes of sale as a perfume, scent or flavouring essence.

No intoxicating liquor to be sold without a licence except in certain cases.

3. (1) Whoever disposes, exposes for sale or offers for sale any intoxicating liquor is guilty of an offence unless -

(a) he holds an appropriate licence or authorisation under this Law;

(b) such intoxicating liquor is sold by virtue of any legal process or any law authorising or requiring the sale including bankruptcy, winding-up (including winding up of a deceased estate), and any sale under the Customs Law (Second Revision);

Law 14 of 1971.

(c) the intoxicating liquor is supplied for medicinal purposes on the prescription of a duly qualified medical practitioner; or

(d) the intoxicating liquor is sold or supplied to or in any lawfully constituted Naval, Military, Air Force, Police Force or Volunteer Force canteen or mess.

(2) Whoever, being the owner, occupier or being concerned in the management of any premises not licensed under this Law, permits or suffers any intoxicating liquor to be sold or exposed for sale from those premises is guilty of an offence.

Licensing Boards and
Districts.

4. (1) For the purposes of this Law the Islands are divided into the following Licensing Districts, namely -

(a) Grand Cayman;

(b) Cayman Brac and Little Cayman.

(2) For each Licensing District there are continued the Liquor Licensing Boards in existence under the old Law.

(3) The Board for Grand Cayman shall consist of a Chairman, who shall be a Magistrate or Justice of the Peace, a Deputy Chairman and three other members all of whom shall be appointed by the Governor and who shall hold office at his pleasure for such period not exceeding five years as the Governor may determine and who shall be eligible for re-appointment.

(4) The Board for Cayman Brac and Little Cayman shall consist of a Chairman, who shall be a Magistrate or Justice of the Peace, the District Commissioner for the Lesser Islands as Deputy Chairman and three other Members all of whom shall be appointed by the Governor and who shall hold office at his pleasure for such period not exceeding five years as the Governor may determine and who shall be eligible for re-appointment.

(5) The quorum for the proceedings of a Board shall be three Board members including the Chairman who shall have an original vote but not a casting vote.

(6) In the event of a quorum not being present at any meeting of a Board, such meeting shall stand adjourned until a date to be notified to the Board members by the Chairman.

(7) Board members shall hold office until re-appointed or replaced on the next occasion when Board members are appointed under subsection (3) or (4).

(8) The Governor may, from time to time, appoint a Board member temporarily to fill a casual vacancy arising from any cause including non-attendance by any member.

(9) The Governor shall appoint an Executive Secretary for each Board who shall hold office at his pleasure and who may speak but not vote at meetings of the Board.

(10) All appointments to the Board shall be published by Government Notice.

Functions and conduct
of the Boards.

5. (1) A Board shall hear and deal with all applications and matters relevant thereto and may grant, renew, vary or revoke any licences.

(2) In hearing an application a Board shall-

(a) sit in a place open to the public;

(b) hear on oath every person who desires to be heard in any matter relevant to an application; and

(c) record a summary of the evidence given before it.

(3) A Board may, at its option, retire in order to discuss its decision in each case.

(4) The Board may, at its discretion, adjourn any application for a licence or any matter relevant thereto to a later date, or, notwithstanding section 6 (4), to a later session.

(5) A Board's decision shall be determined by vote.

(6) A Board's decision shall be promulgated as soon as practicable after the conclusion of the relevant hearing.

(7) A Board may grant licences to take effect at a future date subject to compliance by the applicant with conditions specified by the Board.

(8) A Board shall cause its decisions to be published by Government Notice.

(9) Where a Board grants a licence to an applicant such licence shall be issued under the hand of the Chairman in the form provided in the Schedule and subsequent variations and renewals may be endorsed thereon and the endorsement signed by the Chairman.

(10) Where a Board grants a licence it shall issue to the applicant under the hand of the Chairman, a provisional licence in terms of such grant and in the form provided in the Schedule.

(11) Where an application is for the renewal of an existing licence only and is accompanied by the Treasury receipt required by section 10(3) the Board may, provided no objection to such renewal is received forty-eight hours or more prior to the time advertised for the relevant hearing, grant the application without hearing the applicant and, in such case, shall notify the applicant accordingly.

(12) An application under subsection (11) need do no more than refer to the existing licence and any variation made thereto and request that it be renewed.

(13) Where an application is made for the renewal of an hotel licence and such licence was held by the applicant on the 12th July, 1982, and has since been so held then, provided that the premises the subject of the application still contains not less than ten bedrooms, such premises shall be deemed to be an hotel for the purposes of such renewal.

(14) Where no procedure is laid down by this Law, a Board may regulate its own procedure.

6. (1) An annual session for the hearing of applications shall be held in each Licensing District in the month of September in each year on days which shall be fixed by the Chairman and published by Government Notice at least fourteen days before the commencement of such session.

(2) Every such Government Notice shall have appended thereto particulars of every application.

(3) A Licence granted at an annual session shall take effect on the 1st October following such session and shall remain in force, unless revoked or varied in the meantime, until the end of the thirtieth day of September next following.

(4) A Board in annual session shall continue in such session on every working day until all applications timously made have been determined.

7. (1) A licence is a permit to an individual person or to two individual persons jointly, who may or may not be the servants or representatives of another named person, in compliance with this Law, to dispose of -

- (a) such intoxicating liquors;
- (b) in such quantities;
- (c) to such persons;
- (d) at such times;
- (e) at such premises; and
- (f) subject to such general conditions,

as may be specified therein, and shall be in the form provided in the Schedule .

(2) Persons licensed under subsection (1) are licensees under this Law.

(3) Premises specified under subsection (1) (e) are licensed premises under this Law.

(4) A Board may in granting or renewing a licence in respect of any premises designate the whole or any part or parts of the licensed premises as a bar but no area shall be or remain designated as a bar unless it is capable of being locked off from the rest of the premises in such a way as to deny access thereto to persons other than the licensee.

(5) Whoever not being a licensee or the employee of a licensee engaged in his duties as such enters or remains in any bar during prohibited hours is guilty of an offence and the licensee shall, unless he proves that the offence has been achieved by means of forcible entry by a person not being in his employment or control, be deemed to have aided and abetted such offence.

(6) Sea-going vessels used for the entertainment of the public shall be deemed to be "premises" for the purposes of this section and the Board may grant a retail licence in respect thereof subject to such conditions as the Board may impose under subsection (1) (f).

(7) The bar of a sea-going vessel in respect of which a licence has been issued under subsection (6) shall be locked off from the rest of the vessel and no intoxicating liquor may be disposed of, exposed for sale, offered for sale, or consumed, on such vessel, while it is at, or within half a mile of any land.

Qualifications of a licensee.

8. (1) A Board shall not grant a licence to any person unless it is satisfied that such person is —

(a) of good character, and exhibits to the Board a certificate signed by the Commissioner showing his record of criminal convictions (if any) over the preceding fifteen years;

(b) over the age of twenty-one years;

(c) of sufficient business capability to understand and comply with the provisions of this Law; and

(d) has paid the fee prescribed for the grant of a licence.

(2) A Board shall not grant a licence under section 7 (6) to a person other than the captain or other person in charge of the vessel concerned and unless, in addition to satisfying the requirements of subsection (1), such person establishes to the satisfaction of the

Board by evidence on oath or affirmation that all persons having a beneficial interest in such vessel, and the owner or owners of such vessel, are of good character.

(3) A Board shall not grant a licence under section 7 (6) in respect of a vessel unless the Board is satisfied that the vessel is fit as to repairs, equipment (including fire-fighting, radio, life-saving and first-aid equipment) crew, fuel and in all other respects for all its voyages. A Board may at any time suspend such a licence if it is satisfied that the relevant vessel no longer complies with this subsection.

Requirements for
licensed premises.

9. (1) A Board shall not grant a licence unless satisfied that the premises in respect of which the application is made -

- (a) have exits plainly marked and lighted;
- (b) have an adequate fire extinguishing system;
- (c) comply with the laws and regulations affecting building, town planning and public health;
- (d) are situated at a location where they will be of service to the public; and
- (e) will not cause inconvenience to the occupiers of neighbouring property.

(2) In considering the suitability of premises for service to the public, Boards shall have regard to any representations made by or on behalf of the Commissioner, the Chief Medical Officer, the Chief Fire Officer and the Executive Secretary of the Central Planning Authority as well as members of the public who may be directly affected by the grant of a licence.

(3) Subsections (1) and (2) do not apply to licences issued under section 7 (6) but in granting licences under that subsection the Board shall consult and have regard to any advice tendered by the Commissioner, the Chief Medical Officer, the Chief Fire Officer and the Port Authority and no licence so granted shall in any way derogate from the control exercisable by the Port Authority over such vessel.

10. (1) There shall be seven categories of licences, that is to say:-

- (a) distributors;
- (b) package;
- (c) retail;
- (d) hotel;
- (e) temporary;
- (f) restaurant; and
- (g) wine and beer.

(2)(a) A distributor's licence permits the disposal of intoxicating liquor in sealed containers in quantities of not less than six gallons in the case of beer or two gallons in the case of other intoxicating liquor for consumption off the premises of —

- (i) spirits;
- (ii) wine; or
- (iii) malt liquor,

as the case may be.

(b) A package licence permits the disposal of intoxicating liquor in sealed containers by retail for consumption off the licensed premises.

(c) A retail licence permits the disposal of intoxicating liquor for consumption on or off the licensed premises.

(d) An hotel licence permits the disposal of intoxicating liquor in hotel premises for consumption on or off the premises.

(e) A temporary licence permits the disposal of intoxicating liquor temporarily and in the manner therein mentioned.

(f) A restaurant licence permits the disposal, to any person by whom food has been ordered at a restaurant for consumption there, of intoxicating liquor.

(g) A wine and beer licence permits the disposal, to any person by whom food has been ordered for consumption at any premises, of wine and beer.

(3) The fees for a licence shall be as prescribed from time to time and shall be paid into the Treasury and the receipt therefor produced to the Board at the time of application and in the event of an application being rejected, the Treasury shall refund the fee to the applicant.

(4) No person may import into the Islands intoxicating liquor in excess of one gallon unless he is the holder of a licence.

Hours for sale of
alcoholic liquor.

11. (1) Save as otherwise specifically provided, no licensee other than an hotel licensee, a restaurant licensee or a wine and beer licensee shall dispose of intoxicating liquor on Sundays, Christmas Day or Good Friday.

(2) Every licence shall state the times during which the licensed premises shall be and remain open to the public for the sale of intoxicating liquor, and such time shall be known with relation to such licence as specified hours.

(3) A Board may from time to time, by Notice published in the Gazette, specify such hours, with reference to each class of licence, when intoxicating liquor may not be sold and subject to subsection (1), all other hours shall be known as permitted hours:

PROVIDED that, on the application of a licensee, the Chairman of a Board may, subject to the provisions of subsection (1), extend such hours in a particular case and the hours covered by any such extension shall, during the duration of such extension, be deemed to be permitted hours for the purposes of this Law.

(4) Every licensee shall, (save in exceptional and unforeseen circumstances) keep the licensed premises open for the sale of intoxicating liquor to the public during the specified hours and may in addition keep the licensed premises open during other permitted hours.

(5) A licensee who sells or disposes of intoxicating liquor other than during permitted hours is guilty of an offence.

(6) Notwithstanding the provisions of subsection (1), where the Board is satisfied, having regard to the situation of and the construction and design of the premises that it is in the public interest so to do, the Board may permit licensed premises the subject of a retail licence or any part thereof as they may specify to be opened for the disposal of intoxicating liquor on Sundays during such hours as the Board may in each particular case determine and such permission shall be endorsed upon the licence.

(7) A Board may exempt in whole or in part from the provisions of subsection (1)–

(a) any bar serving an airport; and

(b) any duty-free liquor shop located at an airport, in respect of sales to outgoing passengers only.

(8) During the last ten minutes of each period of permitted hours no intoxicating liquor may be supplied to or received by any person in premises licensed under a retail licence, an hotel licence, a temporary licence, a restaurant licence or a wine and beer licence but persons already lawfully in possession of intoxicating liquor may consume it during that period; thereafter any intoxicating liquor in the actual or constructive possession of any person in such licensed premises other than the licensee shall be deemed to have been supplied and obtained there during prohibited hours and such person and the licensee shall be guilty of an offence and such liquor lying in the licensed premises, other than in storage areas not accessible to the public in permitted hours, shall be disposed of as waste by the licensee who shall be guilty of an offence if he fails so to do:

PROVIDED that a *bona fide* guest lawfully resident in the licensed premises may at any time possess and consume intoxicating liquor in any part of the licensed premises reserved for the use of guests and not open to the general public.

Applications for
licences.

12. (1) Every person desiring to obtain a new licence other than a temporary licence or to vary an existing licence shall, at least twenty-one days before a licensing session is due to be held, make application in writing in the Form provided in the Schedule to the Chairman of the appropriate Board specifying –

- (a) the category of licence desired;
- (b) full details of the premises in respect of which the application is made indicating a plan;
- (c) the name and age of the applicant;
- (d) the proposed specified hours; and
- (e) such other relevant information as the applicant desires to impart to the Board.

(2) Applicants under subsection (1) shall attend before the Board at the time of the opening of the sessions and such other times as the Board may require and may in addition be represented by a person qualified to practice law in the Islands.

(3) Every applicant shall, twenty-one days before making an application, affix a copy of the proposed application to some conspicuous place upon the premises named therein and send copies thereof to —

- (a) the Chief Medical Officer;
- (b) the Commissioner;
- (c) the Chief Fire Officer; and
- (d) the Executive Secretary of the Central Planning Authority,

each of whom shall, within fourteen days of the receipt thereof forward to the applicant a certificate in duplicate under his hand stating —

- (i) whether the premises appear to be suitable and unobjectionable for the purposes proposed; or
- (ii) (a) what alterations, if any, to the premises would render such premises suitable; and
(b) what conditions, if any, attached to the licence (if granted), would render the grant of the proposed licence unobjectionable,

and the applicant shall forward such certificates to the Chairman together with the application.

13. (1) Where, in any case, it is desired in respect of any licence to change —

- (a) the licensee;
- (b) the location of the licensed premises;
- (c) the licensed premises by making addition or alteration thereto;
- (d) the specified hours;
- (e) the category of licence; or
- (f) any condition imposed under section 7 (1) (f),

the licensee or a prospective licensee may make application to the Chairman of the relevant Board in that behalf and the Chairman may grant such application subject to such conditions as he may decide to impose and shall endorse the licence accordingly:

PROVIDED that at least seven days before the grant of any application to change the location of the licensed premises under paragraph (b), notice of the application shall be made by publication in at least one newspaper circulating in the Islands and the Commissioner, the Chief Fire Officer and the Chief Medical Officer and any member of the public may object in writing to the application and the Chairman shall, before granting such applications give due consideration to such objections.

(2) Every grant of a variation made by a Chairman under subsection (1) shall be reconsidered by the Board at its next meeting after the making of such grant and the decision of the Board and the date of such decision shall be endorsed on the relevant licence.

14. (1) Where, twenty-one days prior to the first day of the months of March, June or December and subsequent to the last meeting of a Board —

- (a) any variation of a licence has been granted by the Chairman under section 13 (1);
- (b) any application for the grant of a licence has been made;
- (c) any written notice of objection to the continuance of an existing licence has been received under section 17 (2); or

(d) any recommendation with regard to an existing licence has been received from any court by virtue of section 16, a quarterly session of the Board shall be held in the month specified.

(2) A quarterly session shall be held at a time and place to be appointed by the Chairman by Notice published in the Gazette at least twenty-one days before the first day of the quarterly session.

(3) Any new licence granted at a quarterly session shall remain in force, unless revoked earlier by the Board, until the end of the thirtieth day of September next following.

(4) A fee for a licence granted at a quarterly session shall be charged on a pro rata basis.

Temporary licences.

15. (1) In addition to the other licensing sessions a Board shall also meet at any time and place to be appointed by the Chairman by Notice published in the Gazette or in a newspaper printed in the Islands at least fourteen days before the meeting to hear any application on grounds of hardship or inconvenience for the grant of a temporary licence to permit the sale of intoxicating liquor on or off licensed premises in the manner therein mentioned.

(2) The applicant shall attend before the Board at the meeting and may, in addition, be represented by a person qualified to practice law in the Islands.

(3) Before granting a temporary licence under subsection (1), a Board may require such notice to be given, cause such enquiries to be made and require to be produced by any person such information or certificate, as it shall consider desirable.

(4) A temporary licence granted under subsection (1) shall take effect immediately and shall remain in force, unless revoked or varied in the meantime, only until the next following licensing session and shall be subject to such terms and conditions as the Board shall impose.

(5) No application shall be made more than once in every two years by the same applicant in respect of the same premises.

Court may make
recommendations
regarding licences.

16. Where in any matter coming before a court the conduct of the licensee is such or the manner of user of licensed premises appears to the Judge or Magistrate to be unsatisfactory or prejudicial to the public interest, such Judge or Magistrate may make such recommendation to the Board as he considers proper and shall notify the licensee or his counsel accordingly and shall cause such recommendation to be communicated to the Chairman of the relevant Board by the Clerk of the Court.

Objections by the
public.

17. (1) At any application for the grant of a licence the Commissioner, the Chief Fire Officer, the Chief Medical Officer or any member of the public who has given at least seven days notice of objection in writing to the Chairman may appear and be heard in objection to the grant of such licence.

(2) At any meeting of a Board the Commissioner, the Chief Fire Officer, the Chief Medical Officer or any member of the public who has given to the Chairman seven days notice of objection may appear and ask for the revocation or discontinuance of any existing licence:

PROVIDED that, where in the case of such objection by a member of the public the Board is of the opinion that the objection is malicious, frivolous or vexatious, the Board may order the objector to pay the licensee any costs he has incurred thereby and to pay to the Board for the benefit of the revenue of the Islands a further sum at the rate of one hundred dollars for each hour or part of an hour of the Board's time taken up by hearing and investigating the objector's complaint.

Death of a licensee.

18. (1) On the death of a licensee the licence shall vest in the personal representatives of the licensee.

(2) Where a licence vests in personal representatives by virtue of subsection (1) the personal representatives shall, so soon as practicable, make application for a variation of the licence by transfer thereof to any one or two of them or to a nominee acting or authorised on their behalf.

Occasional
authorisations.

19. (1) Where it is desired to sell intoxicating liquor at a casual entertainment or festival held for a recognised public purpose a

Chairman may, if satisfied that no profit whatsoever accrues to the sponsors or organisers of such festival or entertainment, grant to one individual person over the age of twenty-one or two such individual persons jointly an authorisation to sell intoxicating liquor for a period and at a place specified in such authorisation.

(2) An authorisation shall be in the Form provided in the Schedule.

(3) An authorisation may be for disposal to the public generally or to a particular section of the public.

Conditions of retail
selling.

20. (1) No licensee shall dispose of or have on the licenced premises any spirits (other than liqueurs) having a strength of less than seventy-five per cent of proof spirit, otherwise than in specifically marked containers showing the nature and specific gravity of the contents.

(2) Spirits, unless sold in sealed containers, shall be sold by the English fluid ounce (being one twentieth of an imperial pint) and multiples thereof and no licensee shall have any spirit measure or measuring device of less than one fluid ounce in or about any licensed premises.

(3) Beer, ale, porter, stout, cider, perry and other malt liquor, unless sold in sealed containers, shall be sold by the imperial half pint or multiples thereof and every drinking vessel for the supply of such liquor on draught shall have a capacity in excess of half an imperial pint or multiple thereof and shall be marked to show the half-pint or other capacity level.

(4) Every sealed container for the supply of intoxicating liquor shall be marked to show the capacity of the contents either in imperial pints, litres or a unit of capacity lawfully in use in the country of origin or multiples or fractions thereof.

Consumption etc., of liquor
by persons under the age
of 18

21. (1) Whoever, not having attained the age of eighteen years —

(a) disposes of;

(b) obtains in any licensed premises; or
(c) in any licensed premises or public place, consumes,
any intoxicating liquor is guilty of an offence.

(2) Whoever procures, aids, abets, permits or connives at the commission of an offence contrary to subsection (1) shall be guilty of an offence.

(3) The onus of proof that a person has attained the age of eighteen years is upon the person charged with an offence under this section.

(4) Whoever, being a licensee, is guilty of an offence against subsection (2) is, in addition to any other prescribed penalty liable, at the discretion of the Board, to forfeiture of his licence.

Disposal of intoxicating liquor to drunken or disorderly persons is forbidden.

22. No person shall dispose of to, or procure any intoxicating liquor for, any person who —

(a) appears to be drunk; or

(b) is violent, quarrelsome or disorderly.

Control of drunken and disorderly persons.

23. (1) If, in the opinion of a licensee, his servant or agent or any constable, any person being on licensed premises is drunk or disorderly or appears likely to create a breach of the peace, he shall notify the police and without necessarily giving a reason, ask such person to leave the premises, and such person shall leave forthwith.

(2) If any person having been requested to leave licensed premises in compliance with subsection (1) fails to do so the licensee or any constable may, while avoiding the infliction of bodily harm, use such force as may be necessary to eject such person from the licensed premises.

(3) No licensee shall permit drunkenness, gambling, disorderly or riotous behaviour or blasphemous or obscene language on the licensed premises.

(4) Whoever when present on licensed premises —

- (a) is drunk;
- (b) behaves in a riotous or disorderly manner;
- (c) commits an offence against the Gambling Law;
- (d) uses blasphemous, obscene or offensive language;
- (e) uses any word, gesture or action calculated to offend, embarrass or provoke any person; or
- (f) fails to leave the licensed premises when requested so to do by virtue of subsection (1),

shall be guilty of an offence.

Rights of licensee.

24. (1) For the avoidance of doubt, it is declared that, in addition to such other powers as he may have under this Law, or under any other law, a licensee has the right, and is deemed always to have had the right, at his absolute discretion and without giving any reasons therefor —

- (a) to request any person to leave licensed premises;
- (b) if it appears to the licensee, that any person is drunk or disorderly or likely to cause a breach of the peace or to cause unjustified annoyance to patrons or other users of the premises, to forbid such person from entering such licensed premises.

(2) The licensee, or any servant of his approved in writing by the Commissioner or a constable may use such force as may be necessary to eject from the licensed premises any persons who, under subsection (1)—

- (a) fails or refuses to leave the licensed premises after having been requested to do so; or

(b) enters the licensed premises after having been forbidden to do so.

(3) A person who, under subsection (1), having been requested to leave licensed premises fails or refuses to do so, or having been forbidden from entering thereon does so or attempts to do so, shall be guilty of an offence.

Vicarious responsibility of licensees.

25. (1) It is the duty of every licensee to procure the compliance of his servants, agents and other persons under his control with the provisions of this Law and where such person is guilty of an offence against this Law the licensee shall be equally guilty with such person of such offence whether the licensee was or was not present at the time of the act or omission constituting such offence.

(2) In subsection (1) the expression "person in his control" in relation to a licensee is deemed to include —

(a) any person to whom he has leased the licensed premises or delegated control thereof; and

(b) any servant, agent or person under the control of a person mentioned in paragraph (a).

Service of process on licensees.

26. The licensed premises in respect of any licence shall be the address for the service upon the licensee for any process or matter in connection with this Law and, in the absence of any person to receive such service, service may be effected by affixing the same to an outer door of the premises.

Signboard.

27. Every licensee shall affix a board in some conspicuous place over the door or window of the licensed premises, whereon shall be printed in legible characters his name and underneath such name the words "Licensed to sell intoxicating liquor" with the number of the licence, the class of the licence and the specified hours during which he is required by his said licence to keep his premises open to the public.

Closure of licensed premises in times of riot or apprehended disturbance.

28. If, in the opinion of the Commissioner, a state of riot exists or there is reasonable apprehension of an outbreak of public disorder he may order any licensed premises to be and remain closed until further order and every licensee shall comply with such order of the Commissioner whether it be made personally or in writing.

Alterations to licensed premises.

29. (1) No alteration other than redecoration and maintenance may be carried out in or to licensed premises until a variation order under section 13 has, been granted in that behalf.

(2) Where the grant of a variation order with respect to licensed premises has been made by the Chairman and such variation is not confirmed by the Board at its next meeting, the Board shall specify a reasonable time within which the licensed premises shall be restored to their former condition and, if at the end of such time the premises have not been so restored, the licence shall be and remain in abeyance until such restoration is completed to the satisfaction of the Board.

Power to search premises.

30. (1) The Commissioner, any Justice or revenue officer may -

(a) enter any licensed premises or any place within the curtilage thereof for the purpose of detecting or preventing any breach of the provisions of this Law or any other law which it is his duty to enforce or of any licence or authorisation;

(b) having reasonable ground for suspecting that intoxicating liquor is being unlawfully disposed of, stored, introduced or otherwise dealt with, enter and inspect any aircraft, hovercraft, ship, boat or conveyance, or any premises and examine any place therein and any receptacle, package or thing;

(c) seize and detain any intoxicating liquor which he has reason to believe has been distilled, manufactured, imported, introduced, disposed of or removed, or is possessed contrary to the provisions of this Law or any other law, or is on unlicensed premises for disposal contrary to this Law, and any receptacle, package or thing containing the same and any aircraft, hovercraft, ship, boat, conveyance or animal used in transporting intoxicating liquor contrary to the provisions of this Law or any other law.

(2) Whoever by himself, or by any person in his employ or acting by his direction or with his consent, refuses or fails to admit any

person specified under subsection (1) in the execution of his duty demanding to enter in pursuance of this section, or a person acting in the aid of any such specified person shall be guilty of an offence.

(3) Whoever molests, hinders, opposes or obstructs any person specified under subsection (1), or anyone acting in aid of any such person in the execution of his duty in pursuance of this Law shall be guilty of an offence.

(4) The powers conferred by this section are in addition to and not in derogation of any other power conferred by any other law.

Disposal of intoxicating
liquor to hamper search.

31. Whoever, removes, throws away or destroys, or causes to be removed, thrown away or destroyed, any intoxicating liquor, in order to impede any search for or seizure of the same under this Law is guilty of an offence.

Custody of things seized -
sale of perishables etc.

32. All ships, aircraft, hovercraft, goods and other things which may be seized under this Law shall be delivered into the custody of a revenue officer, or some other person specified by the Governor, who shall cause the same to be properly secured:

PROVIDED that if it appears to the Governor that anything seized is of a perishable nature, or is likely to deteriorate by being kept, he may order the sale of such thing pending its condemnation and shall retain the proceeds of such sale to abide the issue.

Release of seizure on
giving of bond.

33. (1) It shall be lawful for the Governor, on application made to him in writing, to order the delivery of every ship, boat, aircraft, hovercraft, goods or other thing seized, to the owner or his agent, on security given by bond, to the satisfaction of the Governor, to answer double the value of the same in case of condemnation, such value to be determined by the Governor, and such bond shall be taken to the use of Her Majesty in the name of the Governor and shall be delivered and kept in the custody of the Governor, and in the case that the ship, boat, aircraft, hovercraft, goods or other thing is or are condemned, the value thereof shall be paid into the hands of the Governor, who shall thereupon cancel such bond.

(2) A deposit of money in such sum as the Governor may consent to, being not less than the value determined by him, may in any such case, be made with the Governor in lieu of a bond.

Notice of claim to
Governor - procedure.

34. (1) Any person claiming anything seized shall, by himself or his agent, give notice in writing to the Governor of such claim within ten days after the seizure, and such notice shall state that the person claiming is the owner or the agent of the owner, as the case may be of the thing seized, and shall also state the residence and occupation of the claimant and the grounds for disputing the seizure.

(2) All claims shall be based upon the notice to the Governor, and be filed by the claimant against the Governor before the Grand Court within fifteen days after the seizure.

(3) Every such claim shall be supported by the oath of the claimant, or if the claim is made through an agent, by that of his agent, swearing to the best of his knowledge and belief.

(4) When any such claim is made through an agent, sufficient prima facie evidence of his authority to satisfy the Judge of the Grand Court shall be filed with the claim, but, if such authority is not admitted at the hearing, it must be proved.

(5) No claim shall be received or heard by the Judge of the Grand Court unless, along with the same, the claimant deposits the sum of five hundred dollars by way of security for any costs which may be awarded against him.

(6) At the hearing the Governor may appear by any person authorised by him in writing to that effect.

(7) On the hearing, the claimant shall make proof of the ownership of the thing and its exemption from liability to seizure, and in default thereof the Judge of the Grand Court shall make an order confirming the seizure, with costs, whereupon the thing seized may be sold by the Governor.

(8) If the Judge of the Grand Court is of the opinion that the claimant has established his case, he shall make an order annulling

the seizure and, if the thing seized is in the Governor's possession, the Judge of the Grand Court shall make an order for its restitution.

Condemnation and forfeiture.

35. In default of notice, or the filing of any claims within the respective times aforesaid, or if any claim, after having been filed, is discontinued, or judgment is given against the claimant therein, then and in every such case the thing seized shall be taken to be condemned and forfeited and shall be sold.

Mode of sale, etc., and application of proceeds

36. (1) Any thing seized and condemned, or not claimed within the time fixed by this Law, may be sold by auction by any person whether an auctioneer or not, under direction of the Governor, who shall previously notify such sale by Notice published in the Gazette.

(2) The money arising from such sale, shall be applied in payment of -

(a) all charges incidental to such sale, and for custody and carriage;

(b) all charges incidental to the seizure if any, and the proceedings thereon,

and the residue of such money, if any, shall be paid into the Treasury.

Prohibition of certain persons from consuming intoxicating liquor.

37. (1) Where a person is convicted by any court of an offence involving drunkenness or to which, in the opinion of the court, the drunkenness of such person has been a contributory factor and such person has within the previous three years been convicted of not less than two other such offences, the court may, in lieu of or in addition to any other punishment imposed, declare such person to be a prohibited person for the purpose of this Law and place such person under restriction for a period not exceeding one year.

(2) Whoever, while under restriction for the purpose of subsection (1) —

(a) consumes;

(b) obtains;

(c) solicits any person to supply to him; or

(d) has in his possession otherwise than in the normal course of his employment,

any intoxicating liquor shall be guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months or both.

(3) Whoever knowingly supplies intoxicating liquor to a person under restriction under subsection (1) shall be guilty of an offence and, upon summary conviction, punishable as an offender under subsection (2).

(4) Whoever knowingly –

(a) aids;

(b) abets; or

(c) procures,

the commission of an offence under subsection (2) shall be guilty of an offence and upon summary conviction, punishable as an offender under subsection (2).

(5) Where a court declares any person to be a prohibited person by virtue of subsection (1) the Clerk of that Court shall report the fact to the Commissioner and it shall be lawful for the Commissioner by circular or other means to inform all licensees in the Islands of the name and other particulars of such person.

(6) It shall be lawful for the summary court, acting upon the written request of any person to declare such person to be a prohibited person notwithstanding that such person has not committed any criminal offence and the consequences of such a declaration shall be the same in all respects as if such person has been declared to be a prohibited person for the purposes of subsection (1).

(7) Where a person is convicted by any court of any offence and within forty-eight hours of such conviction (excluding any non-working days) there is furnished to such court a written certificate of –

(a) a government medical officer; or

(b) a registered medical practitioner who has had under his care the convicted person or a member of such person's family with whom such person resides.

that in the opinion of such practitioner it would be in the best interests of such person or such family member for the court so to do, such court may declare such person to be a prohibited person for the purposes of subsection (1).

Offences by licensees

38. It is an offence for any licensee to dispose of any intoxicating liquor otherwise than in accordance with his licence.

Liquor not to be consumed in vehicles in certain cases

39. It is an offence for any person to consume any intoxicating liquor while in or on any kind of vehicular conveyance which is moving along or standing adjacent to any highway or its verges.

General penalty

40. (1) Every person guilty of any contravention of this Law is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment not exceeding one year or to both, and upon a second or subsequent conviction to a fine not exceeding two thousand dollars or to imprisonment not exceeding two years or to both.

(2) Where a person convicted under subsection (1) is a licensee the Clerk of the Court shall report such conviction to the Board and, if such licensee is convicted on more than one occasion, the Board may revoke or refuse to renew the licence of such licensee.

(3) Where there has been more than one conviction under this Law in respect of offences having arisen or taken place in the same licensed premises, the Board may refuse to renew the licence in respect of such licensed premises, notwithstanding that the offences took place while the premises were in the hands of different licensees.

Institution of proceedings

41. All proceedings against persons alleged to have offended against this Law shall be instituted under and in accordance with section 13 of the Criminal Procedure Code.

Law 13 of 1975

Appropriation of property forfeited

42. The proceeds of the sale of any property forfeited under this Law shall be paid into the Treasury.

Precise description of
intoxicating liquor not
necessary in evidence.

43. In any prosecution for any offence under this Law with respect to intoxicating liquor, it shall not be necessary for any witness to depose directly to the precise description of the intoxicating liquor with respect to which the offence has been committed, or to the precise consideration therefor, or to the fact that the offence was committed, to his own personal or certain knowledge but, so soon as it appears to the court that the circumstances in evidence sufficiently establish the offence complained of, the court shall put the defendant on his defence, and in default of such evidence being rebutted, shall convict the defendant accordingly.

Proof of knowledge not
necessary.

44. Subject to the provisions of section 37 on the trial of any proceedings for an offence under this Law, it shall not be necessary for a conviction to prove guilty knowledge or that the act or omission charged was committed knowingly.

Protection of officials.

45. No action, suit or prosecution whatsoever shall be brought against any person in respect of any detention or seizure made under this Law where such person was acting or believed himself to be acting in the discharge of his official duties.

Power to make
regulations.

46. The Governor may make regulations for giving effect to the objects and purposes of this Law.

Repeal and saving.

47. Without prejudice to the validity of all licences granted under the old Law until the date of their replacement or variation under this Law, the old Law is repealed.

SCHEDULE

**LIQUOR LICENSING LAW, 1985
(SECTION 12(1))
APPLICATION FOR A LIQUOR LICENCE**

I

aged

of

hereby apply to the Liquor Licensing Board for a

licence for the period beginning on the day of
.. 19 .., and ending on the thirtieth of September following.

I undertake to keep my premises open for service to the public during
the following hours —

Weekdays

Sundays

The address of the proposed licensed premises is

.....

I enclose certificates of the Commissioner of
Police, the Chief Fire Officer, Chief Medical Officer
and the Executive Secretary of the Central Planning
Authority as to the suitability of the premises.

A plan of the premises with bars, storage spaces,
entrances and toilet facilities marked thereon is
attached.

A Treasury Receipt for the prescribed fee is also enclosed.

(Signed)

**LIQUOR LICENSING LAW, 1985
(SECTION 5 (6))**

PROVISIONAL GRANT OF LICENCE

This is to certify that
of has been provisionally
granted a licence in respect of uncompleted premises at
.....
the plans of which have been deposited with the Board, subject to
the following conditions:

1. The licence may take effect on or after
2. The premises have been completed in accordance with the plans
deposited.
3.
4.
5.
6.

(Signed)
CHAIRMAN OF THE BOARD.

**THE LIQUOR LICENSING LAW, 1985
(SECTION 7(1))
LIQUOR LICENCE**

This is to certify that
is the holder of licence under the above Law
which licence is due to expire on the 30th September, 19..... The
licence applies to the licensed premises at
The said licensed premises shall be open to the public for the sale of
.....
and may be open during other permitted hours under this Law.
The following special conditions apply to this licence

(Signed)
Chairman of the Board.

**THE LIQUOR LICENSING LAW, 1985
(SECTION 18 (2))**

AUTHORISATION

This is to certify that
.....
of is authorised to sell intoxicating liquor
to
at
on the occasion of
at the following times
on the (date)

(Signed)
Chairman of the Board.

Passed the Legislative Assembly this 25th day of March, 1985.

PETER LLOYD
President.

E. GAY JACKSON
Clerk of the Legislative Assembly.