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Liquor Control

1962

Liquor Control Ordinance 1962, No.13

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LIQUOR CONTROL ORDINANCE 1962
1962, No.13

An Ordinance to make provision for the establishment of a Liquor Control Authority and for the control of the sale and consumption of intoxicating liquor in Niue (20 November 1962).

PART I - PRELIMINARY

1. Short Title and Commencement - (1) This Ordinance may be cited as the Liquor Control Ordinance 1962.

(2) This Ordinance shall come into force on a date to be appointed for the commencement thereof by the Resident Commissioner by notice published in the [Niue Island Gazette] (being a date not earlier than the date appointed for the commencement of Part I of the Cook Islands Amendment Act 1961).

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[The Ordinance came into force on first December 1964 by public notice dated 24 November 1964 and published by the then customary manner in the Daily News Sheet. The publication of an official Gazette known as the Niue Island Gazette was authorised by section 5 of the Cook Islands Amendment Act (No.2) 1965.]

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

"Authority" means the Liquor Control Authority established under this Ordinance.

(2) In this Ordinance terms defined in the [Niue Act 1966], unless the context otherwise requires, have the meanings thereby assigned to them.

[In subsection (2) the Niue Act 1966, being the corresponding enactment in force at the date of this reprint, has been substituted for the Cook Islands Act 1915.]

PART II - LIQUOR CONTROL AUTHORITY

3. Establishment of Liquor Control Authority - There is hereby established for the purpose of this Ordinance an Authority to be known as the Niue Liquor Control Authority.

4. Constitution and Membership - (1) The Authority shall consist of a Chairman and three other members appointed by the Resident Commissioner.

(2) The Chairman and Members shall be paid such fees and allowances as may be approved by the Resident Commissioner.

5. Term of Office - (1) Except as otherwise provided in this Ordinance, every member of the Authority shall be appointed for a term of three years and may from time to time be reappointed for a like term.

(2) Any member of the Authority may at any time be removed from office by the Resident Commissioner for disability, insolvency, neglect of duty, or misconduct proved to the satisfaction of the Resident Commissioner, or may at any time resign his office by written notice addressed to the Resident Commissioner.

(3) If any member dies or resigns or permanently departs from Niue or is removed from office the Resident Commissioner shall in accordance with the provisions of section four of this Ordinance appoint a person to be a member of the Authority for the residue of the term for which the vacating member was appointed.

(4) Every member, unless he sooner vacates his office otherwise than by effluxion of time, shall continue to hold his office as Chairman or other member, as the case may be, until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

6. Deputies of Members - (1) In any case in which the Resident Commissioner is satisfied that any member is incapacitated by illness, temporary absence or other sufficient cause from performing the duties of his office the Resident Commissioner may appoint a deputy to act for the member during his incapacity, and any such deputy shall, while he acts as such, be deemed to be a Chairman or a member of the Authority, as the case may be.

(2) The provisions of section four of this Ordinance shall apply with respect to the appointment of a deputy of any member of the Authority.

(3) No such appointment of a deputy and no acts done by a deputy as such shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

7. Procedure - Save as hereinafter provided the Authority may regulate the meetings, proceedings and general conduct of the business of the Authority in such manner as it thinks fit.

8. Meetings - (1) The first meeting of the Authority shall be held at a time and place to be appointed in that behalf by the Resident Commissioner.

(2) Subsequent meetings shall be held at such times and places as the Authority from time to time appoints.

(3) Every meeting shall be presided over by the Chairman.

(4) At all meetings the Chairman and two members shall form a quorum.

(5) At any meeting the Chairman shall have a deliberative vote and in the case of an equality of votes shall also have a casting vote.

(6) All questions before the Authority shall be decided by a majority of the votes recorded thereon.

(7) A resolution in writing signed or assented to by letter or telegram by a majority of the members shall be as valid and effectual as if it had been passed at a meeting of the Authority.

9. Minutes of Meetings - (1) The Authority shall cause minutes to be made in books provided for the purpose -

- (a) of the names of the members present at each meeting of the Authority;
- (b) of all resolutions and proceedings of meetings of the Authority.

(2) Any such minutes, if signed by any person purporting to be the Chairman shall be receivable in evidence without any further proof.

10. Authority may refer matters for investigation - With the approval of the Resident Commissioner the Authority may from time to time appoint such person or persons as it thinks fit (whether or not they are members of the

(1) In any case in which the Authority is satisfied that any member is temporarily absent or other reasons for the duties of his office, the Authority may appoint a deputy to act for him, and any such deputy shall, if appointed to be a Chairman or a Secretary, be deemed to be a Chairman or a Secretary in the case may be.

Section four of this Ordinance shall provide for the appointment of a deputy of the Authority.

Any act of a deputy and no acts done by the Authority in any proceedings be questioned on the ground that the appointment had not been made.

Hereinafter provided the Authority shall regulate its proceedings and general conduct in such manner as it thinks fit.

At every meeting of the Authority, a Chairman shall be appointed in that office.

Meetings shall be held at such times and places from time to time appoints.

Meetings shall be presided over by the Chairman.

The Chairman and two members shall constitute a quorum.

The Chairman shall have a deliberative vote and an equality of votes shall be given to each member.

At every meeting of the Authority, the Chairman shall be present and his name shall be recorded on the minutes.

Any resolution passed by the Authority shall be binding on all members if it has been passed at a meeting at which a quorum was present.

(1) The Authority shall cause to be kept a register of the names of the members present at every meeting of the Authority; and the minutes of the proceedings of the Authority.

Any document or thing assigned by any person purporting to be the Authority shall be receivable in evidence.

(2) For investigation - With the sanction of the Authority, any member or persons as it may think fit, may be members of the Authority.

(Authority) to inquire into and report to the Authority on any alleged or suspected abuse of the permit system in operation or such other matters as are referred to them by the Authority.

11. Officers - (1) There may from time to time be appointed as officers of the [Niue Public Service] a Secretary of the Authority and such other officers as may be required for the purposes of this Ordinance.

(2) Any person may hold any office under this section in conjunction with any other office in the [Niue Public Service].

[The words "Niue Public Service" were substituted for the words "Cook Islands Public Service" by the Niue Act 1966.]

PART III - FUNCTIONS AND POWERS OF THE AUTHORITY

12. Functions - The functions of the Authority shall be to control the sale and consumption of intoxicating liquor in Niue pursuant to the provisions of this Ordinance and [Part XXVIII of the Niue Act 1966].

[Part XXVIII of the Niue Act 1966, being the corresponding enactment in force at the date of this reprint, has been substituted for Part I of the Cook Islands Amendment Act 1961.]

13. General Powers - (1) The Authority shall have all the powers and authorities reasonably necessary for and incidental to the effective performance of its functions.

(2) The powers and authorities of the Authority shall not be affected by any vacancy in its membership or by any defect in the appointment of any member.

14. Particular Powers - Without limiting any of the powers specifically conferred herein, the Authority shall have authority:

- (a) to institute and administer an individual permit system for the purchase of liquor as provided hereinafter;
- (b) to control the sale of liquor on behalf of the Crown to the holder of a duly issued permit.

15. Liquor Permits - (1) The Authority may, in its discretion, issue a permit to purchase intoxicating liquor to any applicant, including any club or association of persons whose constitutional rules have been approved by the Resident Commissioner, and which has a clear authority from the Resident Commissioner to distribute or dispose of liquor by sale or other means among its members or bona fide guests.

- (2) Any such permit may be:
 - (a) a general permit authorising the purchase of a stated quantity of liquor in each month during the currency of the permit;
 - or

- (b) a special permit authorising the purchase of a stated quantity of liquor for a specified occasion; or
- (c) a temporary permit of such character as the Authority may think fit.

(3) Every permit shall be subject to such conditions as the Authority may think fit to impose (whether before or after the issue of the permit) either generally by notice in the Niue Island Gazette, or in any particular case by endorsement on the licence, or by notice in writing to the applicant.

(4) The Authority may specify in any permit the quantity of liquor authorised to be purchased by reference to liquor points and shall from time to time by notice in the Niue Island Gazette determine the value of such points in terms of quantities of intoxicating liquor.

16. Assignment of Permits - No rights conferred by a liquor permit may be assigned and every person commits an offence who attempts to assign any such rights or who purchases or attempts to purchase intoxicating liquor by virtue of any such purported assignment.

17. Review of Permits - (1) The Authority may in its discretion at any time:

- (a) Revoke any permit that in the opinion of the Authority should not have been issued;
- (b) Review any permit issued with a view to cancelling it or varying its terms or conditions;
- (c) Suspend any permit pending review;
- (d) Call upon any person to whom a permit has been issued to show cause why his permit should not be cancelled or varied; or
- (e) On review as aforesaid, cancel any permit or vary its terms and conditions.

(2) Every person whose permit has been revoked or cancelled or the terms or conditions of whose permit have been varied on review shall surrender his permit to the Authority for endorsement.

18. Agents - (1) The Authority may at the request of an applicant authorise him to appoint an agent to collect from a liquor store the liquor authorised by the permit to be purchased.

(2) The Authority shall cause to be endorsed on the permit the name and address of the person whom it has authorised the applicant to appoint as an agent.

(3) No person against whom an Order in terms of section twenty-two of this Ordinance is in force shall be appointed as an agent under the provisions of this section.

(4) Every appointment of an agent under this section shall be in writing signed by the person authorised to make the appointment.

authorising the purchase of liquor for a person; or of such character as the Authority think fit.

shall be subject to such conditions as the Authority think fit to impose (whether before or after the issue of the permit) either generally by notice or in any particular case by notice or by notice in writing to the person to whom the permit is issued.

The Authority may specify in any permit the conditions to be observed in respect of the liquor to be purchased by reference to time by time by notice in writing to the person to whom the permit is issued, and may vary or terminate the value of such points in respect of intoxicating liquor.

No rights conferred by a permit shall be cancelled or varied, and every person commits an offence who contravenes any such rights or who purchases intoxicating liquor by means of a permit so cancelled or varied.

(1) The Authority may in its discretion

cancel any permit issued if it is of the opinion that in the opinion of the Authority the permit should not have been issued; or if the permit was issued with a view to varying its terms or

if the permit is pending review; or if the person to whom a permit is issued fails to show cause why his permit should not be cancelled or varied;

or if the Authority so decided, cancel any permit issued subject to such conditions.

If a permit has been revoked or varied, the person to whom the permit was issued shall surrender his permit to the Authority.

The Authority may at the request of an agent appointed by the permit to collect from any person authorised by the permit to be

appointed as an agent, cause to be endorsed on the permit the name of the person whom it has been appointed as an agent.

When an Order in terms of this Ordinance is in force shall be subject to the provisions of this

section, any agent under this section shall be a person authorised to make

(5) The Authority may at any time revoke any authority to appoint an agent for the collection of liquor if the Authority has reasonable grounds to suspect that the appointment was made or has been acted upon with the object of circumventing any provisions of this Ordinance.

19. Review by High Court - (1) Any person whose application for a permit to purchase liquor has been refused or who feels aggrieved by any decision of the Authority made pursuant to the provisions of this Part of this Ordinance may apply to the High Court for relief in the form set out in the Schedule hereto or to the like effect.

(2) On receipt of an application under this section the High Court shall call on the Authority to show cause as to the case may be, why:

- (a) The permit should not be issued as applied for; or
- (b) The permit already issued should not continue in force; or
- (c) The permit should be varied; or
- (d) The authority to appoint an agent should not be issued as applied for; or
- (e) The authority to appoint an agent should not continue in force.

(3) The High Court shall after hearing such evidence as it thinks fit confirm, modify or reverse the decision of the Authority and may generally make such order and impose such costs as it considers just and equitable in the circumstances of the case.

(4) Pending the decision of the High Court in respect of any application under this section every decision of the Authority to which the application relates shall have full force and effect.

(5) In any proceedings under this section the Authority may be represented by counsel or any other agent or by an officer of the Authority; and any member or officer of the Authority appointed in that behalf by the Authority may give evidence on behalf of the Authority.

PART IV - OFFENCES AND MISCELLANEOUS

20. Offences - (1) Every person commits an offence against this Ordinance who:

- (a) Obstructs or hinders any member or officer of the Authority in the exercise of any power, function or authority conferred on him by or under this Ordinance;
- (b) With intent to procure by purchase or otherwise any intoxicating liquor contrary to the provisions of this Ordinance, deceives or attempts to deceive or, as a person to whom a permit has been issued, counsels, procures or aids his agent to deceive or abets his agent in deceiving any member or officer of the Authority;

- (c) Without sufficient cause fails to comply with the request of the Authority to surrender his permit for endorsement;
 - (d) (Not being a bona fide guest or member of the household of a person to whom a liquor permit has been issued) has intoxicating liquor in his possession or custody or consumes such liquor without first having obtained a liquor permit pursuant to the provisions of Part III of this Ordinance: Provided that it shall not be an offence against this paragraph for any person who was immediately before the coming into force of this Ordinance in the lawful possession of liquor to continue to have in his possession or custody or to consume any such liquor.
- (2) Every person commits an offence who:
 - (a) Drinks any intoxicating liquor;
 - (b) Supplies any intoxicating liquor to any person for consumption;
 - (c) Has possession or control of any intoxicating liquor intended for consumption;

in any omnibus, taxi cab, or other vehicle for the time being used for the carriage, for hire or reward, of members of the public; or on any wharf or jetty, or on any public part of any passenger ship, boat or other vessel plying for hire at a wharf or jetty or within one mile of the shore at any time when persons other than bona fide passengers or crew have access to the ship, boat or vessel. The public part of a ship, boat or vessel shall include any deck, passenger way, gangway, passenger lounge or bar but shall not include crews' quarters or passengers' cabins, or the dining saloon.

(3) Any Officer of Police or Officer of Customs may seize and remove any intoxicating liquor that on reasonable grounds he suspects is intended for consumption in contravention of subsection two of this section and the vessels containing the liquor.

21. Penalties - Every person who commits an offence under this Ordinance shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding fifty pounds (£50).

22. Additional Powers of Court - (1) The Court shall have power, in addition or in lieu of any other penalty provided in any enactment for the time being in force in Niue, to cancel any permit issued to any accused person or suspend such permit for a specified period or make an order forbidding the Authority to issue any permit to the accused for a specified period where the accused is convicted of:

- (a) Drunkenness; or
- (b) An offence committed while under the influence of intoxicating liquor proved to the satisfaction of the Court; or
- (c) An offence under this Ordinance.

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, boat or other vessel plying
ty or within one mile of the
sons other than bona fide
ness to the ship, boat or vessel.
boat or vessel shall include any
ay, passenger lounge or bar but
quarters or passengers' cabins, or

lice or Officer of Customs may
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of this section and the vessels

erson who commits an offence under
able on conviction to imprison-
ing six months or to a fine not
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Court - (1) The Court shall have
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me being in force in Niue, to
any accused person or suspend
period or make an order for-
ue any permit to the accused
the accused is convicted of:

while under the
ing liquor proved
the Court; or
Ordinance.

(2) When the Court cancels or suspends any permit as
foresaid it shall direct the accused to produce his permit
for endorsement and any person who without reasonable cause
fails to produce his permit as so directed, shall be guilty
of contempt of Court.

(3) A certified copy of any order made by the High
Court pursuant to this section shall be served on the
Authority, the Officer in Charge of Police, and the
[Comptroller of Customs].

[In subsection (3) the words "Comptroller of Customs"
were substituted for the words "Collector of Customs" by
the Niue Act 1966.]

23. Annual Report - (1) Not later than the thirty-first
day of March in every year the Authority shall submit to
the Resident Commissioner a report on its operation and all
its proceedings during the year ended on the thirty-first
day of the preceding December.

(2) The Resident Commissioner may publish any report
so received or any part of it in such a manner as he may
think fit.

24. Regulations - (1) The Resident Commissioner may from
time to time by notice published in the Niue Island Gazette
make all such regulations as he deems necessary or expedient
for the due administration of and for giving full effect to
the provisions of this Ordinance.

(2) Any regulations made under this section shall
come into force on a date to be specified therein in that
behalf, (whether before or after the date on which they
are made) and if no such date is specified, shall come
into force on the date of their notification in the Niue
Island Gazette.

(3) All regulations made under this section shall be
laid before the Legislative Assembly within twenty-eight
days after the making thereof if the Assembly is then in
session or, if not, shall be laid before the Assembly
within twenty-eight days after the commencement of the next
ensuing session.

[No regulations under this section made before the
date of this reprint.]

Section 19

SCHEDULE

In the [High Court of Niue]

In the matter of the Liquor Control Ordinance 1962

To the High Court of Niue,
NIUE ISLAND.

This application is made under section 19 of the
Liquor Control Ordinance 1962.

I hereby apply for relief against the decision of
the Niue Island Liquor Control Authority given on the ...
day of.....so far as the decision relates to the
following matters:

My grounds are as follows:

I pray that this Honourable Court grant relief
as follows:

Signature

(To be signed by or on behalf of Applicant)

Full name of applicant:

Address for service:.

[The words "High Court of Niue" were substituted
for the words "High Court of the Cook Islands" by the
Niue Act 1966.]