

# CONSOLIDATION OF LIQUOR ACT

R.S.N.W.T. 1988,c.L-9

*(Current to: February 1, 2020)*

## **AS AMENDED BY NORTHWEST TERRITORIES STATUTES:**

R.S.N.W.T. 1988,c.42(Supp.)

R.S.N.W.T. 1988,c.101(Supp.)

R.S.N.W.T. 1988,c.106(Supp.)

S.N.W.T. 1991-1992,c.38

In force January 1, 1993

S.N.W.T. 1994,c.19

In force November 1, 1994: SI-013-94

S.N.W.T. 1995,c.9

NIF

S.N.W.T. 1995,c.11

S.N.W.T. 1998,c.17,s.19

s.19 in force April 18, 2000: SI-003-2000

S.N.W.T. 1998,c.21,s.12

s.12(1)-(5),(7)-(12) in force March 31, 1999: SI-007-99

s.12(6) NIF

## **AS AMENDED BY STATUTES ENACTED UNDER SECTION 76.05 OF NUNAVUT ACT:**

S.N.W.T. 1998,c.34

In force April 1, 1999

S.N.W.T. 1998,c.36

In force April 1, 1999

## **AS AMENDED BY NUNAVUT STATUTES:**

S.Nu. 2003,c.15

In force November 5, 2003, except ss.2,4,5,6,8

ss.2,4,6,8 in force May 1, 2004: SI-009-2003

s.5 NIF

S.Nu. 2006,c.9

In force June 15, 2006, except ss.3,6,10,12-14

ss.3,6,10,12-14 in force April 1, 1999 (deemed)

S.Nu. 2010,c.25,s.34

s.34 in force March 21, 2011: SI-001-2011

S.Nu. 2013,c.24

In force September 17, 2013

S.Nu. 2017,c.7,s.13

s.13 in force March 14, 2017

S.Nu. 2017,c.20,s.69

s.69 in force December 31, 2018

S.Nu. 2017,c.21,s.6

s.6 in force April 1, 2019

S.Nu. 2017,c.22,s.22

s.22 in force June 8, 2017

S.Nu. 2018,c.7,s.69

s.69 in force October 17, 2018

**Note: see s.78 of S.Nu. 2018,c.7 for transitional provisions.**

S.Nu. 2018,c.8,ss.4,11(2)(c)

ss.4,11(2)(c) in force October 17, 2018

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## GLOSSARY OF TERMS USED IN CONSOLIDATIONS

### *Miscellaneous*

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

### *Citation of Acts*

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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## LIQUOR ACT

### INTERPRETATION

#### Definitions

1. (1) In this Act,

"Agent" means a person appointed by the Minister under subsection 63(1) to sell liquor;  
(*vendeur autorisé*)

"application" means an application for a licence; (*demande*)

"beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt, hops or any similar products in drinkable water; (*bière*)

"Board" means the Liquor and Cannabis Board established by subsection 3(1);  
(*Commission*)

"brewery" means any premises where beer is manufactured for a commercial purpose;  
(*brasserie*)

"brewery permit" means a permit issued under subsection 16.4(1); (*permis de brasserie*)

"club" means a social, sporting, community, benevolent or fraternal order or society, or any branch of it, incorporated by an Act of Nunavut or under an Act of Canada, a province or another territory; (*association*)

"Commission" means the Liquor and Cannabis Commission established under subsection 56(2); (*Société*)

"container" means a bottle, vessel or receptacle containing liquor or a container wholly or partly enclosing a bottle, vessel or receptacle used for holding liquor; (*contenant*)

"inspector" means an inspector appointed under subsection 53(1); (*inspecteur*)

"interdicted person" means a person interdicted under section 104; (*interdit*)

"intoxicated condition" includes being intoxicated by alcohol, cannabis or another drug;  
(*état d'intoxication*)

"licence" means a licence issued by the Board under subsection 13(1); (*licence*)

"licensed premises" means the premises or place in respect of which a licence is issued;  
(*lieux visés par une licence*)

"licence holder" means the person named in a licence; (*titulaire d'une licence*)

"liquor", subject to paragraph 54(h), includes

- (a) any alcoholic, spirituous, vinous, fermented, malt or other intoxicating liquid or combination of liquids,
- (b) any mixed liquid, a part of which is alcoholic, spirituous, vinous, fermented, malt or otherwise intoxicating, and
- (c) beer and wine; (*boisson alcoolisée*)

"liquor store" means

- (a) a liquor store established under subsection 62(1) operated by a vendor,
- (b) premises operated by an Agent,
- (c) that part of the premises operated by an Agent that is used by the Agent for the sale of liquor, or
- (d) a place operated by the Commission to store liquor and fill orders for the purchase and delivery of liquor; (*magasin d'alcool*)

"municipality" means a city, town, village or hamlet; (*municipalité*)

"permit" means a liquor import permit, a brewery permit, a wine permit, a special permit or a special occasion permit referred to in section 15; (*permis*)

"permit holder" means the person named in a permit; (*titulaire d'un permis*)

"plebiscite" means a local option plebiscite held under this Act; (*référendum*)

"private recreational facility" includes a facility that is operated for profit-making purposes; (*installations récréatives privées*)

"public place" includes

- (a) a place or building to which the public has access,
- (b) a place of public resort, and
- (c) any vehicle in a public place, but does not include a location off a highway that is reasonably remote from any settlement and that is used for picnicking, sport fishing or other outdoor recreational activity,

but does not include premises licensed under this Act; (*lieu public*)

"qualified voter" means a person who

- (a) is a Canadian citizen,
- (b) has attained the age of 19 years, and
- (c) has been ordinarily resident in the settlement, municipality or area in which a petition arises for a period of not less than one year immediately before the date on which the person signs the petition, or

- (d) has been ordinarily resident in the settlement, municipality or area in which a plebiscite is to be held for a period of not less than one year immediately before the date set for voting; (*électeur*)

"residence" means

- (a) a building or part of a building that is actually and bona fide occupied and used by the owner, lessee or tenant solely as a private dwelling together with the lands and buildings belonging to that building that in fact are normally and reasonably used as part of the living accommodation,
- (b) a private guest room in a hotel or motel that is actually and bona fide occupied as a private guest room by a guest of the hotel or motel,
- (c) a camper unit, trailer or tent that is actually and bona fide occupied and used by the owner, lessee or tenant as a private dwelling together with the lands appurtenant to it that in fact are normally and reasonably used as part of the living accommodation, or
- (d) a vessel that is actually and bona fide used by the owner, lessee or tenant as a private dwelling; (*résidence*)

"sale" includes

- (a) the exchange, barter or traffic of liquor, and
- (b) the selling, supplying or distributing of liquor by any means; (*vente*)

"settlement" means an unincorporated community of persons; (*localité*)

"spirits" means any beverage containing alcohol obtained by distillation and includes brandy, rum, whiskey, gin and vodka and any other alcoholic solution; (*spiritueux*)

"vehicle" means any means of transportation by land, water or air and includes any motor car, automobile, truck, snowmobile, tractor, aeroplane, vessel, boat, launch, canoe or any other thing used in any way for such transportation; (*véhicule*)

"vendor" means a person designated as a vendor under subsection 62(2); (*préposé à la vente*)

"wine" means any liquor obtained by the fermentation of the natural sugar content of fruit, including grapes, apples or berries, or any other agricultural product containing sugar, including honey and milk. (*vin*)



## Alcohol content

(2) For the purpose of the definition of "liquor" in subsection (1), a liquid preparation or mixture that contains more than 0.5% alcohol by volume shall be deemed conclusively to be intoxicating. S.N.W.T. 1991-1992,c.38,s.2,3; S.N.W.T. 1995,c.11,s.32; S.Nu. 2006,c.9,s.2,3; S.Nu. 2018,c.7,s.69(2),(3)(a).

**Note:** On a day to be fixed by order of the Commissioner, subsection 1(1) is amended by

- (a) repealing the definition of "municipality" and by substituting the following:

"municipality" means a city, town, village, hamlet or charter community; (*municipalité*)

- (b) adding the following definition in alphabetical order:

"special by-law officer" means a special by-law officer appointed under subsection 49.1(1); (*agent spécial d'exécution des règlements municipaux*)

See S.N.W.T. 1995,c.9,s.2.

## PART I

## INTERPRETATION

## Definition of "Minister"

2. In this Part, "Minister" means the Minister who is assigned the responsibility for this Part.

## LIQUOR AND CANNABIS BOARD

## Liquor Licensing Board

3. (1) A board called the Liquor and Cannabis Board is established.

## Composition of Board

(2) The Board shall be composed of not more than nine members appointed by the Minister.

## Term

(3) Members of the Board shall hold office for a term of two years.

## Chairperson

(4) The Minister shall designate a member of the Board to be chairperson.

## Quorum

(5) Three members of the Board constitute a quorum.

### Remuneration

(6) The members of the Board shall be paid the remuneration and expenses that the Minister directs.

### Executive Secretary

(7) The Minister may designate a person to be the Executive Secretary to the Board and specify his or her duties. S.N.W.T. 1998,c.36,Sch.B,s.1; S.Nu. 2018,c.7,s.69(3)(b),(4).

### Prohibition against dealing in liquor

**4.** (1) No member of the Board, Executive Secretary, inspector or person appointed under section 7 shall directly or indirectly have an interest in or be engaged in any business or undertaking dealing in liquor or cannabis

- (a) as owner, part owner, partner, member of a syndicate, shareholder, agent, licensee or employee;
- (b) for his or her own benefit; or
- (c) in any capacity for some other person.

### Prohibition against acceptance of commission, etc.

(2) No member of the Board or member of the public service shall solicit or receive directly or indirectly any commission, remuneration or gift of any kind from a person or corporation that has sold or is selling liquor or cannabis, or is offering liquor or cannabis for sale, in Nunavut under this Act. S.Nu. 2006,c.9,s.2; S.Nu. 2018,c.7,s.69(5).

### Liability of Board members

**5.** Subject to Part IX of the *Financial Administration Act*, no proceedings lie against any member of the Board for anything done or omitted to be done in or arising out of the performance, in good faith, of the duties of the member under this Act.

### Guidelines of Minister

**6.** (1) Notwithstanding any other provision of this Act or the *Cannabis Act*, the Board, in fulfilling its responsibilities under this Act or the *Cannabis Act*, shall act in accordance with policy guidelines set out by the Minister from time to time.

### Duties of Board

(2) Subject to this Act and the regulations, the Board shall control

- (a) the conduct of licence holders;
- (b) the management and equipment of licensed premises; and
- (c) the conditions under which liquor may be sold or consumed on licensed premises;

### Powers of Board

(3) The Board may,

- (a) subject to this Act and the regulations,
  - (i) issue, renew and transfer licences, and
  - (ii) after a hearing, cancel or suspend licences;
- (b) subject to this Act,
  - (i) generally advise the Minister on all matters of policy, legislation and administration relating to the sale, distribution and consumption of liquor, and
  - (ii) make rules or orders governing its proceedings; and
- (c) performing any functions assigned to the Board under the *Cannabis Act*.

### Public meetings

(4) Notwithstanding any other provision of this Act, the Board, on application by a council of a band, settlement or municipality, may prohibit the sale of liquor by any licence holder in a settlement or municipality on the day or days, or part of the day or days, on which a public meeting is to be held in the settlement or municipality.

### Oaths

(5) Every member of the Board and every official authorized by the Board to issue licences under this Act may administer any oath and take and receive any affidavit or declaration required under this Act or the regulations. S.N.W.T. 1994,c.19,s.2; S.Nu. 2006,c.9,s.3.1; S.Nu. 2018,c.7,s.69(6),(7).

### Employees of Board

**7.** The employees of the Board are members of the public service.  
S.Nu. 2006,c.9,s.4.

### Expenditures of Board

**8.** All expenditures for the purposes of the Board shall be paid out of moneys appropriated for that purpose.

### Annual report

**9.** (1) The Board shall, in accordance with Part IX of the *Financial Administration Act*, submit to the Minister an annual report, which must

- (a) state the activities of the Board;
- (b) include the audited financial statements of the Board prepared in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding year and shall include
  - (i) a balance sheet presenting fairly the financial position of the Board at the end of the fiscal year, and
  - (ii) a statement of income;
- (c) include the report of the auditor; and
- (d) include any other information that the Minister may require.

### Tabling

(2) The Minister shall table a copy of the annual report before the Legislative Assembly at the first session of the Legislative Assembly after the receipt of the annual report by the Minister.

### Revenue

**10.** All moneys received from licence fees, permits and other moneys derived from the administration of this Part or the regulations made under this Part, shall be deposited in the Consolidated Revenue Fund.

### Regulations

**11.** The Commissioner, on the recommendation of the Minister, may, subject to this Act, make regulations

- (a) prescribing the rights, privileges, conditions and obligations attaching to licences and permits;
- (b) respecting the operation of licensed premises;
- (c) respecting the conditions and qualifications necessary for the obtaining of licences and permits, and renewals and transfers of licences;
- (d) determining the numbers and classes of licences that may be issued;
- (e) prescribing the days and hours when a licensed premises shall be kept open for the sale of liquor or shall be closed;
- (f) prescribing the equipment and the minimum standard of design and decor of licensed premises;
- (g) prescribing offences, the commission of which would disqualify a person from holding a licence;
- (h) prescribing the duties and powers of inspectors;
- (i) providing for the adequate inspection of licensed premises;
- (j) governing the quantity and use of liquor purchased under a permit;
- (k) controlling or prohibiting the advertising of liquor by means of signs or in newspapers, magazines, radio, television or other means of public communication;
- (l) controlling and regulating the business activities of agents or representatives of liquor manufacturers or importers;
- (m) fixing the fees that are payable for licences and permits and renewals of licences;
- (n) fixing the fees that are payable for transfers of licences;
- (o) respecting the forms required under this Part;
- (p) prescribing the maximum prices for beer, wine and liquor that licensed premises may charge; and
- (q) respecting any other matter that is necessary or advisable to carry out effectively the intent and purpose of this Act.

S.Nu. 2006,c.9,s.5.

### Sale on Remembrance Day

**12.** Notwithstanding anything in this Act or the regulations, a branch of the Royal Canadian Legion that possesses a licence to sell liquor may, after 12 noon on any Remembrance Day that falls on a Sunday, sell or give liquor in its licensed premises and permit the consumption of liquor on its licensed premises by a member or bona fide guest.

## LICENCES AND PERMITS

### Classes of licences

**13.** (1) Subject to this Act and the regulations, the Board, in its absolute discretion, on receipt of an application for a licence accompanied by the prescribed fee, may by order issue to the applicant in respect of specified premises, a licence of any of the following classes:

- (a) aircraft licence for the sale and consumption of liquor to passengers while in transit;
- (b) brew pub licence to a holder of a brewery permit for the sale and consumption at a brew pub of beer manufactured under the authority of the brewery permit;
- (c) canteen licence for the sale and consumption of liquor in military and quasi-military messes and in the canteen facilities of fire halls;
- (d) club licence for the sale of liquor by the licence holder for consumption by members and guests;
- (e) cocktail lounge licence for the sale and consumption of liquor;
- (f) cultural and sports facility licence for the sale and consumption of liquor in theatres and sports arenas;
- (g) dining room licence for the sale and consumption of liquor in a public dining room;
- (h) guest room licence for the sale of liquor by the licence holder for consumption by a bona fide registered guest of a tourist establishment;
- (i) off-premises licence, subject to this section, for the sale of beer in licensed premises to persons for consumption off the premises;
- (j) private recreational facility licence for the sale of liquor by the licence holder for consumption by members and guests;
- (k) ship licence for the sale and consumption of liquor to passengers while in transit;
- (l) special licence for the sale and consumption of liquor or beer only to a commercial corporation operating in an isolated area.

### Terms and conditions

(1.1) Subject to this Act and the regulations, the Board, in issuing a licence, may set out such terms and conditions in the licence respecting the matters referred to in subsection 6(2) as the Board considers appropriate.

### Tobacco control condition

(1.12) It is a condition of any licence that the licence holder shall ensure compliance with

- (a) the provisions of the *Tobacco Control Act* that apply to the licensed premises; and
- (b) any municipal by-law affecting the licensed premises that regulates smoking, as defined in the *Tobacco Control and Smoke-Free Places Act*, or designates places in which smoking is prohibited.

### Application

(1.13) Subsection (1.12) applies to any licence issued or renewed after subsection (1.12) comes into force.

### Contravention of term or condition

(1.2) No person shall contravene a term or condition of a licence.

### Hours for off-premises

(2) Subject to this Act and the regulations, the Board, in issuing an off-premises licence, shall set out the hours for the sale of beer under the licence but in no case shall the hours extend beyond 10 p.m.

### Quantities for off-premises

(3) No person shall sell more than twelve 355 ml containers of beer to any one person on any one day under an off-premises licence.

### Authority of licence

(4) A licence authorizes the licence holder to purchase, sell, possess and use liquor subject to this Act, the regulations and the terms and conditions set out in the licence.

### Dual licences

(5) Notwithstanding subsection (1), two different classes of licences may be issued in respect of the same specified premises where there are no other licences in force in the same community. S.N.W.T. 1991-1992,c.38,s.4,5; S.N.W.T. 1998,c.21,s.12(2); S.Nu. 2003,c.15,s.2; S.Nu. 2006,c.9,s.5.1; S.Nu. 2018,c.8,s.4.

### Special audit

**14.** (1) Subject to subsection (2), it is a condition of a brewery permit and any licence that the Board may authorize and appoint a representative of the Board

- (a) to enter at any reasonable time any premises where books, accounts or records are kept pertaining to
  - (i) the production of beer at a brewery or the sale or other disposition of such beer, or
  - (ii) the sale of liquor in any licensed premises; and
- (b) inspect, study, audit, or take extracts from the books, accounts or records referred to in paragraph (a).

#### Warrant to enter residence

(2) Where a premises referred to in paragraph (1)(a) is a residence, a representative of the Board shall not enter that residence without the consent of the occupant except under the authority of a warrant issued under subsection (3).

#### Authority to issue warrant

(3) Where on an *ex parte* application, a justice of the peace is satisfied by information on oath that there are reasonable grounds to believe that

(a) entry to a residence is necessary for the purpose set out in subsection (1), and

(b) entry to the residence has been refused or will be refused, the justice of the peace may issue a warrant authorizing the representative named in the warrant to enter the residence subject to the conditions that may be specified in the warrant.

#### Use of force

(4) In executing a warrant issued under subsection (3), the representative named in the warrant shall not use force unless the representative is accompanied by a peace officer and the use of force has been specifically authorized in the warrant.

#### Seizure

(5) A representative of the Board who is exercising the powers referred to in subsection (1) may, where the representative has reasonable grounds to believe that an offence under this Act or the regulations has been committed, seize any books, accounts or records.

#### Offence

(6) Every person having any book, account or record in his or her possession or under his or her control pertaining to

(a) the production of beer at a brewery or the sale or other disposition of beer produced at a brewery, or

(b) the sale of liquor in any licensed premises,

is guilty of an offence if he or she refuses or fails to produce the book, account or record or if he or she refuses or fails to comply with a request made under this section.

S.N.W.T. 1991-1992,c.38,s.6,7.

#### Classes of permits

**15.** (1) The Commissioner may, on application accompanied by the prescribed fee, issue permits of the following classes:

(a) liquor import permits to authorize the importation of liquor into Nunavut and the possession and use of imported liquor;

(b) wine permits to authorize the making of wine;

(c) special permits to authorize the purchase and use of liquor for a medicinal, scientific or other special purpose except for a sacramental purpose.

#### Delegation to issue liquor import permits

(2) The Commissioner may delegate the power under paragraph (1)(a) to any person and the person to whom the power is delegated has and may exercise the powers of the Commissioner under this section.

#### Delegation to issue special permits

(3) The Commissioner may delegate the power under paragraph (1)(c) to the Board or to any other person and the Board or the person to whom the power is delegated has and may exercise the powers of the Commissioner under this section.

#### Special occasion permit

(4) Subject to this Act and the regulations, the Board or a person designated by the Minister may issue to any person or organization a special occasion permit for the sale and consumption of liquor at social functions on receipt of an application for a special occasion permit accompanied by the prescribed fee.

#### What permit authorizes

(5) A permit issued under subsection (1) authorizes the permit holder to purchase, possess and use liquor subject to this Act, the regulations and the terms and conditions set out in the permit.

#### Authority of permit

(6) A permit issued under subsection (4), authorizes the permit holder to purchase, sell, consume, possess and use liquor subject to this Act, the regulations and the terms and conditions set out in the permit.

#### Cancellation of permit

(7) The Commissioner, on notice to the permit holder, may in the absolute discretion of the Commissioner, cancel any permit issued under this section and the decision of the Commissioner is final. S.Nu. 2006,c.9,s.6.

#### Persons not eligible for permit

**16.** No permit mentioned in section 15 shall be issued to a person who is not eligible to purchase liquor at a liquor store.

#### Eligibility to hold brewery permit

**16.1.** A person is not eligible to hold a brewery permit if

- (a) the person is not duly licensed to operate a brewery under the applicable laws of Canada;
- (b) the person is under the age of 19 years;
- (c) the person is a corporation and
  - (i) the majority of the directors or officers of the corporation are under the age of 19 years, or
  - (ii) the individual who is in charge of the facility to which the permit relates or would relate is under the age of 19 years;



- (d) the person is a member, employee or agent of the Board or Commission;
  - (e) the person operates a liquor store under this Act;
  - (f) the premises to which the permit relates or would relate is owned or partly owned by a member, employee or agent of the Board or Commission or by a person who operates a liquor store under this Act;
  - (g) the person is not entitled by ownership or lease to operate the premises to which the permit relates or would relate; or
  - (h) the person has been convicted of a prescribed offence.
- S.N.W.T. 1991-1992,c.38,s.8.

#### Application for brewery permit

**16.2.** (1) A person may apply for a brewery permit by submitting an application to the Board in the prescribed manner and with the prescribed fee.

#### Particulars

(2) Where a corporation applies for the issue of a brewery permit, the Board may require the corporation to produce particulars of its directors, officers and shareholders.

#### Offence

(3) No applicant for a brewery permit shall knowingly fail to make full disclosure to the Board respecting any condition referred to in paragraphs 16.1(a) to (h) or with respect to any particulars requested under subsection (2). S.N.W.T. 1991-1992,c.38,s.8.

#### Notice to community government

**16.3.** (1) Where the Board receives an application under subsection 16.2(1), the Board shall, to ascertain the views of the community most closely affected by the application, provide a copy of the application

- (a) to the municipal council or settlement council, where the community is a municipality or a settlement; or
- (b) to the band council or community council, where the community is not a municipality or a settlement.

#### *Idem*

(1.1) Where both a band council and a municipal or settlement council exist in the same community, the Board shall provide a copy of the application to both the band council and to the municipal or settlement council.

#### Resolution of community government

(2) Where a municipal council, settlement council, band council or community council receives a copy of an application under subsection (1) or (1.1), the council may, by resolution, support the application or oppose the application.

#### Deemed opposition to application

(3) Where a municipal council, settlement council, band council or community council does not make a resolution under subsection (2) within 60 days after receiving a copy of an application under subsection (1) or (1.1), the council is deemed to oppose the application. S.N.W.T. 1991-1992,c.38,s.8.

#### Notice to surrounding communities

**16.31.** (1) Where the Board receives an application under subsection 16.2(1), the Board shall, to ascertain the views of prescribed communities surrounding the community most closely affected by the application, provide a copy of the application

- (a) to the municipal council or settlement council of a prescribed community and to the band council, if any, of that community, where the community is a municipality or a settlement; or
- (b) to the band council or community council, where the community is not a municipality or settlement.

#### Consideration of views of surrounding communities

(2) The Board shall, in determining whether to issue the brewery permit, consider the views expressed by any municipal council, settlement council, band council or community council provided with a copy of the application under subsection (1). S.N.W.T. 1991-1992,c.38,s.8.

#### Board recommendation

**16.4.** (1) Subject to subsection (2), the Board may issue a brewery permit or refuse to issue a brewery permit.

#### Restriction on issue of brewery permit

(2) The Board shall not issue a brewery permit where

- (a) the municipal council, settlement council, band council or community council of the community most closely affected by the application opposes or is deemed to oppose the application; or
- (b) the Board determines that the applicant is not eligible to hold a brewery permit under section 16.1.

S.N.W.T. 1991-1992,c.38,s.8.

#### Manufacture and sale of beer

**16.5.** (1) A brewery permit issued under subsection 16.4(1) authorizes the permit holder, subject to the applicable laws of Canada, to

- (a) manufacture at the premises described on the permit,
- (b) sell to the Commission, and
- (c) export from Nunavut,

the category, class, variety or brand of beer described in the permit.

#### Sale of beer under brew pub or off-premises licence

(2) The holder of a brewery permit may, on behalf of the Commission, sell beer under the authority of a brew pub licence or an off-premises licence issued to the permit holder. S.N.W.T. 1991-1992,c.38,s.8; S.Nu. 2006,c.9,s.2.

#### Application for renewal of brewery permit

**16.6.** (1) The holder of a brewery permit may apply to the Board for renewal of the permit by submitting an application in the prescribed manner with the prescribed fee.

#### Renewal of brewery permit

(2) The Board shall renew a brewery permit on receipt of an application submitted under subsection (1).

#### Effect of suspension

(3) The renewal of a brewery permit does not affect any suspension imposed in respect of the permit. S.N.W.T. 1991-1992,c.38,s.8.

#### Brewery permit non-transferrable

**16.7.** (1) A brewery permit is non-transferrable.

#### Issue or transfer of shares

(2) Where the holder of a brewery permit is a corporation, the directors of the corporation shall submit to the Board for approval any issue or transfer of shares that results in a shareholder beneficially owning or controlling more than 10% of the voting rights attached to all shares of the corporation for the time being outstanding.

#### Approval of issue or transfer of shares

(3) Where the Board considers that an issue or transfer of shares of a corporation results in a change referred to in subsection (2), the issue or transfer is not final until

- (a) the Board approves the issue or transfer; and
- (b) the transferor has paid the prescribed fee in full.

S.N.W.T. 1991-1992,c.38,s.8.

#### Suspension or cancellation of brewery permit

**16.8.** (1) After a hearing the Board may suspend or cancel a brewery permit where the permit holder

- (a) contravenes this Act or the regulations; or
- (b) ceases to be eligible to hold the permit under section 16.1.

#### Notice to permit holder

(2) The Board shall give the permit holder at least seven days notice of a hearing.

#### Service and content of notice

- (3) A notice given in subsection (2) must
- (a) be served personally on the permit holder or be mailed to the address of the permit holder; and
  - (b) state the grounds for suspension or cancellation of the brewery permit.

#### Notice by mail

(4) Where a notice is mailed under paragraph (3)(a), service is deemed to be effective 14 days after the day of mailing. S.N.W.T. 1991-1992,c.38,s.8.

#### Examination of evidence

**16.9.** (1) The Board shall, on request, afford the permit holder an opportunity to examine in advance of the hearing reports or documentary evidence relating to the subject of the hearing.

#### Conduct of hearing

(2) The permit holder may be represented by counsel at the hearing and may present evidence and cross-examine witnesses.

#### Reasons

(3) Where the Board suspends or cancels a brewery permit under subsection 16.8(1), the Board shall provide written reasons for its decision to the permit holder. S.N.W.T. 1991-1992,c.38,s.8.

#### Appeal to Nunavut Court of Justice

**16.91.** (1) The holder of a brewery permit may appeal a decision of the Board to suspend or cancel a brewery permit under subsection 16.8(1) to the Nunavut Court of Justice on a question of law.

#### Stay by court

(2) An appeal to the Nunavut Court of Justice does not stay the operation of the decision appealed from, but the court may grant a stay on the terms the court considers reasonable until the appeal is decided. S.N.W.T. 1991-1992,c.38,s.8; S.Nu. 2006,c.9,s.2.

#### Expiration of licence and permit

**17.** (1) Subject to subsection (2), every licence or permit expires on March 31 next following the day on which the licence or permit comes into force.

#### Expiration provision

(2) A licence or permit that contains an express provision respecting its expiration expires in accordance with that provision.

#### Suspension of licence

**18.** (1) Where, in the opinion of an inspector, conditions exist in licensed premises that constitute a serious contravention of this Act or the regulations and where it is necessary, in the public interest, to have those conditions immediately removed or remedied, the inspector may suspend the operation of any licence for the premises until the conditions are removed or remedied.

#### Length of suspension

(2) No suspension issued under this section shall exceed 48 hours in duration, unless confirmed by the Board in accordance with sections 35 to 37.

#### Filing of report

(3) Where a suspension is made under subsection (1), the inspector shall, as soon as it is practical, file a written report respecting the suspension with the Board.

#### Proceedings to follow report

(4) Where a report is filed with the Board under subsection (3), the Board shall consider the licence in question for cancellation or suspension in accordance with sections 35 to 37.

#### Liability of Board members and others

(5) No proceedings lie against a member of the Board, the Executive Secretary, an inspector or any person appointed under section 7 for anything done or omitted to be done in good faith pursuant to or in the exercise of his or her powers or performance of his or her duties under this Act or the regulations.

#### Suspension of licence or permit

**18.1.** (1) Where an inspector believes, on reasonable grounds, that

- (a) conditions exist in a brewery that constitute a serious contravention of this Act or the regulations, and
- (b) it is necessary in the public interest to have the conditions referred to in paragraph (a) immediately removed or remedied,

the inspector may suspend the operation of any permit for the brewery until the conditions are removed or remedied.

#### Length of suspension

(2) No suspension issued under this section shall exceed 14 days in duration.

#### Filing of report

(3) Where a suspension is made under subsection (1), the inspector shall, as soon as is practical, provide a written report respecting the suspension to the Board.

S.N.W.T. 1991-1992,c.38,s.9.

### Form of proceedings

**19.** (1) Proceedings before the Board, other than proceedings for or relating to the suspension or cancellation of a licence or brewery permit, shall be commenced by application and the Board may make the orders and decisions that it considers proper in the exercise of its powers.

### Orders, notices, etc.

(2) Written notices, orders or directions of the Board may be signed by the chairperson or other member of the Board or any person authorized to do so by the chairperson.

### Review of order

(3) Where, in the opinion of the Board, any of the relevant circumstances relating to any proceedings heard by it have altered or new evidence in connection with those proceedings has become available, the Board may review any order or decision made during the proceedings and may amend, revoke or affirm the order or decision.  
S.N.W.T. 1991-1992,c.38,s.10.

### Evidence

**20.** For the purpose of any hearing or investigation, the Board has, as regards the attendance, swearing and examination of witnesses, and the production and inspection of documents, records and things all the powers, rights and privileges that are vested in the Nunavut Court of Justice or a judge of the Nunavut Court of Justice for the trial of civil actions. S.Nu. 2006,c.9,s.2.

### Investigation by Board

**21.** (1) The Board may make the investigation that it considers expedient for the due exercise of its powers into or respecting

- (a) the affairs or conduct of the holder of a brewery permit or any licence or of any of the agents or employees of the holder of the brewery permit or the licence;
- (a.1) the operation of a brewery under a brewery permit;
- (b) any licence at any time issued under this or any previous Act relating to the sale and consumption of liquor, or any premises in connection with that; or
- (c) any matter pertaining to the sale or handling of or transactions in liquor.

### Powers of inspector

(2) For the purposes of an investigation under this section, the Board may, by order,

- (a) subject to subsections (3) and (5), authorize an inspector to enter and search any premises in which the inspector believes on reasonable grounds there may be evidence relevant to the matters being investigated and seize any documents, records, liquor or any

- other property belonging to, in the possession or under the control of, any person that the Board considers relevant to the investigation; and
- (b) appoint an accountant or other expert to examine documents, records or other property or any matters that the Board considers may be relevant to the investigation.

#### Requirement for warrant

(3) An inspector referred to in paragraph (2)(a) shall, before exercising his or her powers under paragraph (2)(a), obtain a warrant issued under subsection (4).

#### Authority to issue warrant

(4) Where on an *ex parte* application a justice of the peace is satisfied by information on oath that there are reasonable grounds to believe that there is in the premises referred to in paragraph (2)(a)

- (a) anything on or in respect of which any offence under this Act or the regulations has been or is suspected to have been committed, or
- (b) anything that there are reasonable grounds to believe will afford evidence with respect to the commission of an offence under this Act or the regulations,

the justice of the peace may issue a warrant authorizing the inspector named in the warrant to enter and search the premises subject to the conditions that may be specified in the warrant and to seize any documents, records, liquor or any other property belonging to, in the possession or under the control of any person that the Board considers relevant to the investigation.

#### Where warrant not necessary

(5) Notwithstanding subsection (3), an inspector may exercise any of the powers referred to in paragraph (2)(a) without a warrant if the conditions for obtaining the warrant under subsection (4) exist but by reason of exigent circumstances it would not be practicable to obtain the warrant.

#### Exigent circumstances

(6) For the purposes of subsection (5), exigent circumstances include circumstances in which the delay resulting from obtaining a warrant would result in danger to human life or safety or the loss or destruction of evidence.

S.N.W.T. 1991-1992,c.38,s.11.

#### Validity of orders

**22.** No order, direction, decision, recommendation or other document of the Board is valid or binding unless it is issued in the name of the Board.

S.N.W.T. 1991-1992,c.38,s.12.

### Orders final

**23.** (1) Subject to this section, every order of the Board is final.

### Appeal

(2) A licence holder that is a party to a decision or order of the Board may appeal the decision or order to the Nunavut Court of Justice on the ground that the Board has erred in law or exceeded its jurisdiction.

### Appeal by stated case

(3) The Board or the Minister may state a case to the Nunavut Court of Justice in the manner provided for in the *Criminal Code*.

### Stay of execution

(4) Where an appeal of a decision or order of the Board has been made to the Nunavut Court of Justice, a judge of the Nunavut Court of Justice may by order stay the execution of the decision or order on the terms that the judge considers just.

S.Nu. 2006,c.9,s.2,7.

### Persons not entitled to licences

**24.** (1) No licence may be issued, renewed or transferred under this Act to or in respect of any person who,

- (a) in the opinion of the Board, is not the true owner of the business carried on at the premises for which the licence is sought;
- (b) has been convicted of any of the offences under such of the laws of Nunavut or of Canada as the regulations prescribe;
- (c) is disqualified under this Act or the regulations or has not complied with the requirements of this Act or the regulations;
- (d) being a corporation, does not comply with this Act or the regulations;
- (e) being a club, does not comply with this Act or the regulations; or
- (f) is an Agent, an employee of an Agent or a vendor.

### Offence

(2) Every person who applies for the issue, renewal or transfer of a licence and who in his or her application knowingly fails to make full disclosure to the Board regarding any of the provisions of subsection (1) or subsection 25(1) is guilty of an offence. S.Nu. 2006,c.9,s.2.

### Where issue of licence prohibited

**25.** (1) No licence may be issued, renewed or transferred under this Act to or in respect of

- (a) a person who is under agreement with any other person to sell the liquor of any manufacturer;
- (b) a manufacturer of liquor or an agent of the manufacturer, or a person who is so associated, financially interested or connected



- with the manufacturer or agent as to be likely to promote the sale of the liquor of the manufacturer;
- (c) a person who, by reason of any agreement, arrangement, concession, obligation or understanding, oral or written or direct or indirect, with any other person promotes the sale of the liquor of any manufacturer; or
  - (d) any premises in which a manufacturer of liquor has an interest, whether freehold or leasehold, or by way of mortgage, lien or charge on any chattel property on the premises, whether or not the interest is direct or indirect or contingent or by way of suretyship or guarantee.

#### Prohibited action or proceeding

(2) No action or other proceeding shall be brought or commenced in any court in Nunavut in respect of any agreement, arrangement, concession, obligation, understanding or interest referred to in subsection (1).

#### Exception

(3) This section does not apply in respect of the authorized sale under a brew pub licence or an off-premises licence of beer manufactured by the licence holder under a brewery permit. S.N.W.T. 1991-1992,c.38,s.13; S.Nu. 2006,c.9,s.2.

#### Production of particulars by directors

**26.** The directors of a corporation who apply for the issue, renewal or transfer of a licence or permit shall, at the time of making the application or at any other time during the term of the licence, when ordered to do so by the Board, produce the particulars of the officers and shareholders of the corporation that the Board may require.

#### Vested right in licence or permit

**27.** No person shall enjoy a vested right in the continuance of a licence or permit, and on the issue, renewal, transfer, cancellation or suspension of a licence or permit, the value of the licence or permit shall not be capitalized but becomes the property of the Government of Nunavut. S.Nu. 2006,c.9,s.2.

#### Hearings

**28.** (1) A hearing respecting an application, proceeding or other matter within the jurisdiction of the Board must be a public hearing unless the Board is of the opinion that a public hearing is not necessary.

#### Public hearings

(2) Notwithstanding subsection (1), the Board shall hold a public hearing in connection with any proceedings before the Board to suspend or cancel a licence.

#### Exception

(2.1) Notwithstanding subsection (2), the Board shall not hold a public hearing in connection with a proceeding to cancel a licence at the request of the licence holder.

### Place of hearings

(3) Where a public hearing is held under subsection (1) and the Board is of the opinion that the residents of a settlement, municipality or area would benefit from the holding of a hearing in the settlement, municipality or area, the hearing may be held in the settlement, municipality or area where the application, proceeding or other matter arose.

### Review by Board

(4) After a public hearing has been held under subsection (1) or a meeting has been held, the Board shall review and determine the applications or other matters before the Board at the public hearing or meeting. S.N.W.T. 1998,c.21,s.12(3).

### Filing of application

**29.** Every application must be in the prescribed form and must be filed with the Board at or before the public hearing of the Board at which the application is to be heard.

### Preliminary application

**30.** No application shall be heard at a public hearing until a preliminary application in the prescribed form has been filed with the Board.

### Publication of notice of application

**31.** (1) After a preliminary application has been approved under section 30, the applicant shall, unless exempted by the Board, publish twice, at his or her own expense, a notice of the application in the prescribed form

- (a) in a newspaper published and having general circulation in the settlement, municipality or area in which the premises for which the licence is sought are situated, or
- (b) where no newspaper is published in the municipality or community in which the premises referred to in paragraph (a) are situated, in a newspaper having a general circulation in the settlement, municipality or area,

and the publications must not be less than six days apart and the second of the publications must not be less than 21 days before the public hearing of the Board at which the application is to be heard.

### Posting of notice of application

(2) In addition to the requirements of subsection (1) the applicant shall, unless exempted by the Board, post notice of the application in the prescribed form in a conspicuous place in the settlement, municipality or area in which the premises for which the licence is sought are situated.

### Exemption

(3) Subsections (1) and (2) do not apply where the licence applied for is a guest room licence for premises located more than 40 km from a settlement, municipality or area.

#### Personal application

**32.** An applicant for a licence may be represented before the Board by his or her solicitor or agent, but the Board may require the applicant to appear in person, and where the applicant is a corporation it may be represented by a director, official of the corporation or manager duly certified as such to the satisfaction of the Board.

#### Renewals

**33.** Unless otherwise directed by the Board, it is not necessary for an applicant for the renewal of a licence to publish notice of his or her application or to appear in person before the Board.

#### Objections

**34.** (1) Any person resident in the community where the premises concerning which the application is made are situated, may object to an application, and the grounds of objection must be filed in writing with the Board at least 10 days before the public hearing at which the application is to be heard.

#### Notification of applicant

(2) On receipt of an objection to an application, the Board shall without delay notify the applicant of the objection.

### CANCELLATION AND SUSPENSION OF LICENCES

#### Proceedings for cancellation or suspension

**35.** (1) In any proceedings before the Board for the cancellation or suspension of a licence, the Board shall by notice in writing invite the licence holder to show cause to the Board why the licence should not be cancelled or suspended and, in the event of the failure of the licence holder to show cause, the Board shall take the action that the circumstances require.

#### Notice to licence holder

(2) The notice referred to in subsection (1) shall be served personally on or sent by registered mail to the licence holder at his or her last known address at the time that, in the opinion of the Board, is appropriate under the circumstances before the date of the meeting or public hearing called in respect of the proceedings but in no case shall the notice served or sent be less than seven days before the meeting or hearing.

#### Specifics of notice

(3) The notice referred to in subsection (1) must specify whether the proceedings before the Board are for the purpose of considering the cancellation of the licence in question or for the purpose of considering the suspension of the licence in question, and the proceedings before the Board shall be conducted accordingly.

### Substance of allegations

(4) The notice referred to in subsection (1) must contain the substance of the allegations made against the licence holder.

### Natural justice

(5) Any proceedings before the Board for the cancellation or suspension of a licence must be held in accordance with the rules of natural justice.

### Proceedings for cancellation of licence

**36.** (1) In any proceedings before the Board for the cancellation of a licence, the Board, after giving notice as required by subsection 35(1), shall hold a hearing and, after due consideration, dismiss the matter or may make an order that it considers proper, and in the order may

- (a) cancel the licence;
- (b) disqualify any person from holding a licence;
- (c) disqualify any premises from being eligible as licensed premises;
- (d) suspend the licence for a period not exceeding 12 months;
- (e) impose conditions on the licence holder that the circumstances require; and
- (f) impose a fine on the licence holder not exceeding \$5,000 and suspend the licence until the fine is paid in full.

### Proceedings for suspension of licence

(2) In any proceedings before the Board for the suspension of a licence, the Board, after giving notice as required by subsection 35(1), shall hold a hearing and may, after due consideration, dismiss the matter or may make an order that it considers proper and in the order may

- (a) suspend the licence for a period not exceeding 12 months;
- (b) impose conditions on the licence holder that the circumstances require; and
- (c) impose a fine on the licence holder not exceeding \$5,000 and suspend the licence until the fine is paid in full.

### Notice to licence holder

(3) Notice of an order made under subsection (1) or (2) shall be given in writing and served personally on or sent by registered mail to the licence holder at his or her last known address and the order shall take effect on the day and hour specified by the Board in the notice.

### Notice to Commission or Minister

(4) The Board shall send notice of an order made under subsection (1) or (2) without delay to the Commission. S.Nu. 2018,c.7,s.69(8).

#### When licence to be suspended

**36.1.** (1) If a licence holder is convicted for a contravention of subsection 13(1.2) in respect of the condition established in subsection 13(1.12) or section 84, 85, 87 or 98, the Board shall suspend the licence

- (a) for the third offence, for 30 days;
- (b) for the fourth offence, for 30 days; and
- (c) for the fifth offence, for 13 months.

#### Calculation of offences

(2) In calculating the number of offences under subsection (1), the Board shall not include an offence

- (a) for which a conviction was made before this section comes into force; or
- (b) for which a conviction is made after this section comes into force if the offence was committed before this section comes into force.

#### Subsequent convictions

(3) Where a licence holder has been convicted for a contravention of section 84, 85, 87 or 98 and is afterwards convicted for a contravention of any of these sections, the second subsequent conviction shall be deemed to be a conviction for the third offence, the third subsequent conviction shall be deemed to be a conviction for the fourth offence and the fourth subsequent conviction shall be deemed to be a conviction for the fifth offence within the meaning of subsection (1) and the licence holder shall be dealt with and suspended accordingly, although any such conviction may have been for an offence under a different section.

#### Amended suspensions

(4) Where a fine, imprisonment or other punishment is amended by a justice under paragraph 120(b) in respect of a subsequent conviction for a contravention of subsection 13(1.2) in respect of the condition established in subsection 13(1.12) or section 84, 85, 87 or 98, the Board shall amend the suspension imposed under subsection (1) on the subsequent conviction, and impose the suspension that would have been imposed had the previous conviction never existed, and the amended suspension shall upon that be held valid for all intents and purposes as if it had been made in the first instance. S.Nu. 2003,c.15,s.3,4,6.

**Note:** On a day to be fixed by order of the Commissioner, subsection 36.1(3) is amended by adding "subsection 13(1.2) in respect of the condition established in subsection 13(1.12) or" after "been convicted for a contravention of".

*See S.Nu. 2003,c.15,s.5.*

## When licence to be cancelled

**37.** The Board shall cancel a licence if

- (a) the licence holder persistently fails to comply with this Act or the regulations;
- (a.1) the licence holder is convicted for a contravention of subsection 13(1.2) in respect of the condition established in subsection 13(1.12) or section 84, 85, 87 or 98 after the licence is suspended under paragraph 36.1(1)(c);
- (b) the licence holder persistently fails to carry out the orders of the Board or the Fire Marshal appointed under the *Fire Safety Act*;
- (c) the licence holder persistently fails to keep the licensed premises in a clean and sanitary condition in accordance with the *Public Health Act* or the regulations made under that Act;
- (d) the licence holder persistently fails to comply with any municipal by-law affecting the licensed premises;
- (e) any of the circumstances exist that under subsection 24(1) or 25(1) would prevent the issuing of a licence; or
- (f) the licence holder requests the Board to cancel the licence, becomes bankrupt or dies or a mortgagee enters into possession of the licensed premises, but the Board may issue a temporary licence to a trustee or a mortgagee in possession for a period not exceeding six months in order that the trustee or mortgagee may settle the estate or dispose of the licensed premises.

S.N.W.T. 1998,c.21,s.12(4); S.Nu. 2003,c.15,s.7,8;  
S.Nu. 2017,c.7,s.13.

## Orders for costs

**37.1.** (1) Where, in any proceedings before the Board for the cancellation or suspension of a licence, a licence holder refuses or fails to comply with an order or rule made by the Board under paragraph 6(3)(d), the Board may order the licence holder to pay to the Board, within the time fixed by the Board, such amount on account of the costs incurred by the Board in the proceedings as the Board considers appropriate.

## Proceedings for suspension of licence

(2) Where a licence holder fails or refuses to comply with an order to pay the costs referred to in subsection (1), the Board may, subject to subsection (3), consider the licence of the licence holder for suspension in accordance with sections 35 and 36.

## Disposition of suspension proceedings

(3) In any proceedings before the Board for the suspension of a licence under subsection (2), the Board may make any disposition of the matter permitted under subsection 36(2) other than a disposition referred to in paragraph 36(2)(b) or (c).

S.N.W.T. 1994,c.19,s.3.

#### Delivery of forfeited liquor

**38.** (1) Where, in an order to suspend or cancel a licence, the Board orders the licence holder to deliver, without delay to the Commission, all liquor in the possession or under the control of the licence holder, the licence holder, on the receipt of the notice of the order, shall deliver, without delay at his or her own expense, all such liquor to the Commission.

#### Removal at expense of licence holder

(2) If the licence holder refuses to comply with subsection (1), the Commission may arrange for the removal of all liquor in the possession or under the control of the licence holder and the licence holder is responsible for the costs incurred by the Commission. S.Nu. 2018,c.7,s.69(9),(9.1),(10)(a).

#### Transfer of licences

**39.** (1) No licence shall be transferred unless application for a transfer in the prescribed form is filed with the Executive Secretary at or before the meeting or public hearing of the Board at which the application for the transfer is to be heard and the Board is not under any circumstances bound to consent to the transfer.

#### Transfer fee

(2) Where the Board consents to the transfer of a licence, the transferor shall pay to the Executive Secretary at the time of the consent the prescribed fee and the transfer shall be deemed not to be final until the fee has been paid in full.

#### Issue or transfer of shares of corporation

**40.** (1) Where a licence holder is a corporation, the directors of the corporation shall submit to the Board for approval, any issue or transfer of shares of the corporation that results in a shareholder beneficially owning or controlling more than 10% of the voting rights attached to all shares of the corporation for the time being outstanding.

#### Transfer of licence

(2) Where, in the opinion of the Board, an issue or transfer of shares of a corporation results in a change referred to in subsection (1), section 39 applies with such modifications as the circumstances require.

## LOCAL OPTION

### General

#### Plebiscite

**41.** A plebiscite held under this Act must be conducted by secret ballot under the auspices and at the direction of the Minister. R.S.N.W.T. 1988,c.101(Supp.),s.2.

### Duties of Minister

- 42.** (1) Where a plebiscite is held under this Act, the Minister shall
- (a) appoint a returning officer;
  - (b) by order, delimit the area in which the plebiscite is to be held; and
  - (c) by order, fix the date for the holding of the plebiscite and, where the Minister is of the opinion that an advance poll should be held, the date of the advance poll.

### Power of returning officer

(2) A returning officer appointed under this section has all of the powers and may exercise all of the functions of a returning officer appointed under the *Elections Act* (Canada).

### Time of plebiscite

(3) Where a plebiscite is held, the date for holding the plebiscite and for the advance poll, if any, shall be on a day fixed by the Minister.

### Expense of plebiscite

(4) All expenses incurred in the holding of a plebiscite shall be paid out of moneys appropriated for that purpose.

## Plebiscite Concerning Licences

### Requirement for plebiscite

**43.** (1) Subject to this section, the Board may not issue any licence in any settlement, municipality or area, without first, by means of a plebiscite, obtaining the approval of at least 60% of the votes cast by the qualified voters in that settlement, municipality or area.

### Exception

(2) Where, following a plebiscite, a licence or licences are issued in any settlement, municipality or area, the Board may issue other licences that are of the same class, or of a class with less privileges, in accordance with this Act, without a plebiscite.

### Ranking of licences

(3) For the purposes of subsection (2) and section 47, licences shall be deemed to have more or less privileges in accordance with the following list, with a licence in the list having more privileges than those below it in the list and less privileges than those above it in the list:

- (a) cocktail lounge licence;
- (b) dining room licence;
- (c) brew pub licence;
- (d) guest room licence;
- (e) club licence, canteen licence, special licence, aircraft licence, ship licence, private recreational facility licence, cultural and sports facility licence.



### Prohibition against further plebiscite

#### (4) Where

- (a) a plebiscite is held under subsection (1), and
- (b) less than 60% of the votes cast in the settlement, municipality or area are in favour of the Board issuing a licence,

no further plebiscite shall be held in the settlement, municipality or area to ask a question that is similar to such question within three years of that plebiscite.

S.N.W.T. 1991-1992,c.38,s.14.

### Result in favour of licence

**44.** Where at a plebiscite at least 60% of the votes cast in the settlement, municipality or area are in favour of the Board issuing a particular type of licence, the Board may issue that licence on receipt of an application made under this Act.

### Issuing licence without plebiscite

**45.** Notwithstanding section 43, the Board may, if the applicant has met the requirements set out in this Act and the regulations, issue a licence, without a plebiscite, to an applicant for any of the following classes of licences:

- (a) canteen licences;
- (b) guest room licences;
- (c) special licences;
- (d) aircraft licences;
- (e) ship licences;
- (e.1) club licences;
- (f) private recreational facility licences;
- (g) cultural and sports facility licences.

R.S.N.W.T. 1988,c.101(Supp.),s.3.

### Plebiscite concerning licences

**46.** (1) Where at least 20% of the qualified voters in a settlement, municipality or area petition the Minister to close licensed premises of a certain class or classes, the Minister may order that a plebiscite be held to determine the wishes of the qualified voters of the settlement, municipality or area.

### Protection for existing licences

(2) Where licences of any class, other than those set out in section 45, are in existence in any settlement, municipality or area for less than four years, no question shall be asked in a plebiscite that may have the effect of cancelling the licences existing in the settlement, municipality or area.

### Cancellation of licences

#### **47.** Where

- (a) a licence is in force in a settlement, municipality or area in which a plebiscite has been held under subsection 46(1), and
- (b) 60% of the votes cast are against that type of licence,

the Board shall cancel all licences of that type, or of a type that grants more privileges, in the settlement, municipality or area.

### Plebiscite concerning restriction of hours

**47.1.** (1) Where at least twenty percent of the qualified voters in a settlement or municipality petition the Minister to hold a plebiscite to determine whether the hours of operation of licensed premises of a certain class or of certain classes ought to be restricted, or whether an existing restriction ought to be amended or removed, the Minister may order that a plebiscite be held to determine the wishes of the qualified voters of the settlement or municipality.

### Imposition of restriction

(2) Where at least sixty percent of the votes cast at a plebiscite held under subsection (1) are in favour of restricting the hours of operation of licensed premises of a certain class or of certain classes, the Board shall amend the licences of licensed premises of that class or of those classes to comply with the restriction approved at the plebiscite.

### Amendment or removal of restriction

(3) Where at least sixty percent of the votes cast at a plebiscite held under subsection (1) are in favour of amending or removing a restriction on the hours of operation of licensed premises of a certain class or of certain classes, the Board shall accordingly amend or remove the restriction on licences of that class or of those classes.

### Qualified voters

(4) For the purposes of this section, the total number of qualified voters in a settlement or municipality is the number of voters on the final voters list at the last municipal election. R.S.N.W.T. 1988,c.101(Supp.),s.4; S.Nu. 2017,c.21,s.6.

## Plebiscite Concerning Restriction or Prohibition

### Plebiscite

**48.** (1) Where at least 20 qualified voters in a settlement, municipality or area petition the Minister to hold a plebiscite to determine whether the consumption, possession, purchase, sale or transport of liquor ought to be restricted or prohibited in the settlement, municipality or area, the Minister may order that a plebiscite be held to determine the wishes of the qualified voters of the settlement, municipality or area.

Possible systems that may be chosen by plebiscite

(2) Without limiting the generality of subsection (1), the qualified voters may, subject to subsection (3) and the approval of the Minister, choose to vote on any system and may vote on the following systems:

- (a) an unrestricted system in which the community is subject only to the general liquor laws of Nunavut;
- (b) **repealed, R.S.N.W.T. 1988,c.101(Supp.),s.5;**
- (c) a restricted quantities system in which, in addition to the general liquor laws, the quantity of liquor that a person may purchase is limited;
- (d) a committee system, in which a locally elected alcohol education committee decides
  - (i) who may consume, possess, purchase or transport liquor in the settlement, municipality or area,
  - (ii) who may import liquor into the settlement, municipality or area under this Act,
  - (iii) the amount of liquor that a person may possess, purchase, transport or import in the settlement, municipality or area,
  - (iv) who may apply for a wine permit in the settlement, municipality or area and the amount of wine that a person may apply to make, and
  - (v) who may brew beer for personal or family consumption in the settlement, municipality or area and the amount of beer that a person may brew;
- (e) a prohibition system, which prohibits the consumption, possession, purchase, sale or transport of liquor within the settlement, municipality or area.

Exception

(3) Where

- (a) a brew pub licence for the sale and consumption at a brew pub of beer manufactured by the licence holder under a brewery permit,
- (b) a cocktail lounge licence for the sale and consumption of liquor, or
- (c) a dining room licence for the sale and consumption of beer and wine in a public dining room,

is in force in a settlement, municipality or area, no question shall be asked in a plebiscite held under subsection (1) that would, if approved by the qualified voters of the settlement, municipality or area, authorize the making of a regulation that would have the effect of prohibiting or restricting the sale of liquor for consumption in the licensed premises in accordance with the terms and conditions of the licence and the provisions of this Act and the regulations.

#### Nature of restriction or prohibition

(4) A petition presented to the Minister under subsection (1) must indicate the nature of the restriction or prohibition on which it is desired to ascertain the wishes of the qualified voters at a plebiscite.

#### Questions

- (5) The questions on a ballot used in a plebiscite under subsection (1) must
- (a) reflect the content of the petition and may include other questions that the Minister considers desirable; and
  - (b) be translated into languages or dialects appropriate to the settlement, municipality or area.
- R.S.N.W.T. 1988,c.101(Supp.),s.5; S.N.W.T. 1991-1992,c.38,s.15; S.N.W.T. 1994,c.19,s.4,5; S.Nu. 2006,c.9,s.2.

#### Declarations after plebiscite in unregulated area

**49.** (1) Where at a plebiscite held under subsection 48(1), at least 60% of the votes cast by the qualified voters of the settlement, municipality or area where the consumption, possession, purchase, sale or transport of liquor is not restricted or prohibited are in favour of

- (a) restricting any such activities in the settlement, municipality or area and becoming a restricted area, or
- (b) prohibiting any such activities in the settlement, municipality or area and becoming a prohibited area,

the Minister shall declare the settlement, municipality or area a restricted or prohibited area, as the case may be.

#### Declarations after plebiscite in restricted area

(2) Where at a plebiscite held under subsection 48(1), at least 60% of the votes cast by the qualified voters of the settlement, municipality or area where the consumption, possession, purchase, sale or transport of liquor is restricted are in favour of

- (a) removing any restrictions on such activities and becoming an unregulated area,
- (b) prohibiting any such activities and becoming a prohibited area, or
- (c) removing some restrictions or adding further restrictions on such activities, or substituting new restrictions for existing ones, and remaining a restricted area,

the Minister shall declare the settlement, municipality or area an unregulated area, prohibited area or restricted area, as the case may be.

#### Declarations after plebiscite in prohibited area

(3) Where at a plebiscite held under subsection 48(1), at least 60% of the votes cast by the qualified voters of the settlement, municipality or area where the consumption, possession, purchase, sale or transport of liquor is prohibited are in favour of

- (a) removing any prohibitions on such activities and becoming an unregulated area, or
- (b) replacing any prohibitions on such activities with new restrictions and becoming a restricted area,

the Minister shall declare the settlement, municipality or area an unregulated area or restricted area, as the case may be.

#### Effect of declaration

(4) A declaration of the Minister under subsection (1), (2) or (3) shall have effect at the same time as the commencement of the regulations made under subsection (5) to carry into effect the results of the plebiscite.

#### Regulations

(5) When a settlement, municipality or area has been declared a restricted, unregulated or prohibited area, the Commissioner, on the recommendation of the Minister, may make regulations to carry into effect the result of the plebiscite and, if the municipality, settlement or area has been declared to be a restricted or prohibited area, prescribing the punishment that may be imposed for the contravention of the regulations. S.N.W.T. 1998,c.21,s.12(5).

**Note:** On a day to be fixed by order of the Commissioner, the following is added after section 49:

#### Special by-law officers

**49.1.** (1) The Minister may appoint special by-law officers for a municipality that

- (a) is declared to be a prohibited area under subsection 49(1) and in respect of which regulations have been made under subsection 49(4); or
- (b) is or is declared to be a prohibited area in regulations referred to in subsection 51(1), as continued in the *Revised Regulations of the Northwest Territories, 1990*.

#### Persons eligible

(2) Special by-law officers shall be appointed from among the by-law officers of the municipality.

#### Duties

(3) A special by-law officer shall enforce the regulations referred to in subsection (1) that apply to the municipality for which the special by-law officer was appointed.

*See* S.N.W.T. 1995,c.9,s.3.

#### Powers of alcohol education committee

**50.** (1) For the purposes of paragraph 48(2)(d), notwithstanding section 104, a locally elected alcohol education committee may, where the regulations respecting the establishment of the alcohol education committee so provide, withdraw the eligibility of a person to consume, possess, purchase or transport liquor in the settlement, municipality or area, for a maximum period of one year, where

- (a) in the opinion of the committee, that person
  - (i) by excessive drinking of liquor, misspends or wastes or unduly lessens his or her estate, injures his or her health, interrupts the peace and happiness of his or her family or other members of the community, or
  - (ii) has sold, given or transferred liquor to a person who has had his or her eligibility withdrawn under subparagraph (i); and
- (b) the committee has, before making a decision, held a hearing and has given the person who is the subject of the hearing a full opportunity to be heard and to present evidence.

#### Appeal

(2) A person whose eligibility has been withdrawn under subsection (1) may appeal to a justice who shall hold a hearing and may confirm, vary or set aside the decision of the alcohol education committee.

#### Programs

(3) Where an alcohol education committee is established under paragraph 48(2)(d), the alcohol education committee may

- (a) organize programs to educate persons in the use of liquor for the prevention of the abuse of liquor;
- (b) establish a counselling service for persons who abuse liquor; and
- (c) promote programs for the prevention of the abuse of liquor.

#### Authority for regulations

(4) The regulations establishing an alcohol education committee before January 24, 1986, shall be deemed to have been authorized by this Act and any decision made or act or omission done or omitted to be done in accordance with the regulations shall be deemed to have been authorized.

#### *Arctic Bay Liquor Restriction Regulations*

(5) Notwithstanding subsection 17(6) of the *Statutory Instruments Act*, the *Arctic Bay Liquor Restriction Regulations* established by instrument numbered R-060-80 shall be deemed

- (a) not to have been repealed on December 31, 1981, the day on which the *Revised Regulations of the Northwest Territories, 1980* came into force by instrument numbered SI-023-81,
- (b) to continue to have effect until they are repealed or replaced, and

(c) to be part of the *Revised Regulations of the Northwest Territories, 1980* and to be numbered as Reg. 121.1 of the *Revised Regulations of the Northwest Territories, 1980*, and subsection 17(7) of the *Statutory Instruments Act* applies to these regulations.

*Pond Inlet Liquor Restriction Regulations*

(6) Notwithstanding subsection 17(6) of the *Statutory Instruments Act*, the *Pond Inlet Liquor Restriction Regulations* established by instrument numbered R-101-80 shall be deemed

- (a) not to have been repealed on December 31, 1981, the day on which the *Revised Regulations of the Northwest Territories, 1980* came into force by instrument numbered SI-023-81; and
- (b) to continue to have effect until they are repealed or replaced.

Liquor prohibition and restriction

**51.** (1) Notwithstanding sections 48 to 50, the municipalities or settlements referred to in the following regulations published in the *Revised Regulations of the Northwest Territories, 1980*, or the *Northwest Territories Gazette*, are prohibited or restricted areas and the possession, purchase, sale or transport of liquor is prohibited or restricted, as the case may be, as stated in the respective regulations:

- (a) **repealed, S.Nu. 2006,c.9,s.8;**
- (b) **repealed, S.Nu. 2006,c.9,s.8;**
- (c) *Pangnirtung Liquor Prohibition Regulations*, R.R.N.W.T. 1980, Reg. 102;
- (d) **repealed, S.N.W.T. 1994,c.19,s.6;**
- (e) *Gjoa Haven Liquor Prohibition Regulations*, R.R.N.W.T. 1980, Reg. 104;
- (f) *Igloolik Liquor Restriction Regulations*, R.R.N.W.T. 1980, Reg. 105;
- (g) **repealed, S.Nu. 2006,c.9,s.8;**
- (h) *Belcher Islands Liquor Prohibition Regulations*, R.R.N.W.T. 1980, Reg. 107;
- (i) **repealed, S.Nu. 2006,c.9,s.8;**
- (j) **repealed, S.N.W.T. 1994,c.19,s.6;**
- (k) *Rankin Inlet Liquor Restriction Regulations*, R.R.N.W.T. 1980, Reg. 110;
- (l) *Repulse Bay Liquor Restriction Regulations*, R.R.N.W.T. 1980, Reg. 111;
- (m) *Lake Harbour Liquor Prohibition Regulations*, R.R.N.W.T. 1980, Reg. 112;
- (n) *Eskimo Point Liquor Prohibition Regulations*, R.R.N.W.T. 1980, Reg. 113;
- (o) *Liquor (General Prohibition and Restriction) Regulations*, R.R.N.W.T. 1980, Reg. 114;
- (p) *Pelly Bay Liquor Prohibition Regulations*, R.R.N.W.T. 1980, Reg. 115;

- (q) *Coral Harbour Liquor Prohibition Regulations*, R.R.N.W.T. 1980, Reg. 116;
- (r) **repealed, S.Nu. 2006,c.9,s.8;**
- (s) **repealed, S.Nu. 2006,c.9,s.8;**
- (t) *Arctic Bay Liquor Restriction Regulations*, R-060-80;
- (u) *Pond Inlet Liquor Restriction Regulations*, R-101-80;
- (v) *Broughton Island Liquor Restriction Regulations*, R-035-82 as amended by instruments numbered R-114-82 and R-037-85;
- (w) *Clyde River Liquor Restriction Regulations*, R-036-82 as amended by instrument numbered R-038-85;
- (x) *Hall Beach Liquor Restriction Regulations*, R-091-82 as amended by instrument numbered R-039-85;
- (y) *Whale Cove Liquor Prohibition Regulations*, R-139-82.

#### Commencement

(2) The regulations referred to in paragraphs (1)(a) to (s) shall be deemed to have come into force on December 31, 1981.

#### *Idem*

(3) A regulation referred to in paragraphs (1)(t) to (y) shall be deemed to have come into force on the day on which the regulation was registered.

#### Changing prohibition and restriction

(4) A municipality or settlement affected by subsection (1) may change the prohibition or restriction in accordance with sections 41, 42 and 48 to 50. S.N.W.T. 1994,c.19,s.6; S.Nu. 2006,c.9,s.8.

#### Special prohibition resolution

##### **51.01.** (1) Where

- (a) a special occasion is to occur in a settlement or municipality, and
- (b) the council of the settlement or municipality wishes to have the consumption, possession, purchase, sale or transport of liquor prohibited in the settlement or municipality during the special occasion,

the council of the settlement or municipality may, by resolution,

- (c) declare the settlement or municipality a prohibited area during the special occasion for a period of not more than 14 days, and
- (d) prohibit the consumption, possession, purchase, sale or transport of liquor in the prohibited area during the period referred to in paragraph (c).

#### Maximum resolutions

(2) A council may make not more than three resolutions under subsection (1) in a year.



#### Notice of resolution

(3) On making a resolution under subsection (1), the council shall give notice of the resolution

- (a) to the Minister in writing; and
- (b) to the public in a way that is appropriate in the circumstances.

#### Offence and punishment

(4) Every person who contravenes a resolution made under subsection (1) is guilty of an offence and liable on summary conviction to a fine of not less than \$500 and not exceeding \$5,000 or to imprisonment for a term not exceeding 30 days or to both.

S.Nu. 2003,c.15,s.9.

#### Request for special prohibition

**51.1.** (1) Where

- (a) a special occasion is to occur in a settlement or municipality,
- (b) the council of the settlement or municipality wishes to have the consumption, possession, purchase, sale or transport of liquor prohibited in the settlement or municipality during the special occasion, and
- (c) the council of the settlement or municipality has made three resolutions under subsection 51.01(1) in the year,

the council of the settlement or municipality may, in writing, request the Minister to declare the settlement or municipality a prohibited area during the special occasion.

#### Order of Minister

(2) Where the Minister receives a request under subsection (1), the Minister may, by order,

- (a) declare the settlement or municipality a prohibited area for a period of not more than 14 days; and
- (b) prohibit the consumption, possession, purchase, sale or transport of liquor in the prohibited area during the period referred to in paragraph (a).

#### Notice of order

(2.1) On making an order under subsection (2), the Minister shall give notice of the order to the council and on receiving the notice, the council shall give notice of the order to the public in a way that is appropriate in the circumstances.

#### Offence and punishment

(3) Every person who contravenes an order of the Minister made under subsection (2) is guilty of an offence and liable on summary conviction to a fine of not less than \$500 and not exceeding \$5,000 or to imprisonment for a term not exceeding 30 days or to both. R.S.N.W.T. 1988,c.42(Supp.),s.1; S.N.W.T. 1994,c.19,s.7;

S.Nu. 2003,c.15,s.10.

**Note:** On a day to be fixed by order of the Commissioner, subsection 51.1 is amended by

- (a) striking out "possession," in paragraph (1)(b);
- (b) striking out ", in writing," in that portion following paragraph (1)(b); and
- (c) repealing subsection (2) and by substituting the following:

Councils which may request special prohibition

(1.1) Where both a council of a band and a council of a municipality or settlement operate in the same municipality or settlement in which a special occasion is to occur, either council may, independent of the other, make a request under subsection (1).

Time for making request

(1.2) A request made under subsection (1), must be made, in writing, to the Minister no later than 15 days before the day on which the special occasion commences.

Order of Minister

(2) Where the Minister receives a request under subsection (1), the Minister may, by order,

- (a) declare the municipality, settlement or area a prohibited area for a period not exceeding 10 days, which may commence before and end after the special occasion; and
- (b) prohibit the consumption, purchase, sale or transportation of liquor in the prohibited area during the period referred to in paragraph (a).

Application of order

(2.1) For greater certainty, an order made under subsection (2) applies in respect of any licensed premises and liquor store in the prohibited area.

*See S.N.W.T. 1998,c.21,s.12(6).*

Application

**51.2.** (1) This section applies despite an order, resolution, declaration or regulation made under this Act.

Wine for sacramental purposes

(2) Where a church that is of a religion and denomination that normally uses wine for sacramental purposes conducts worship services within a restricted or prohibited area,

- (a) a religious leader of the church or a person authorized by him or her may possess the quantities of wine necessary for sacramental purposes; and
- (b) members of the church or congregation may consume wine in the normal course of worship.

## Liquor for medicinal purposes

(3) A person may, within a restricted or prohibited area, possess and administer to a patient for medicinal purposes the type and quantities of liquor that are in normal use in professional practice if he or she is

- (a) a medical practitioner;
- (b) a registered nurse, a nurse practitioner or a temporary certificate holder as defined in section 1 of the *Nursing Act*;
- (c) a person authorized to provide nursing services under subsection 9(3) of the *Nursing Act*;
- (c.1) a licensed practical nurse as defined in the *Licensed Practical Nurses Act*; or
- (d) a person authorized by a person mentioned in paragraph (a), (b) or (c).

## Transportation of liquor

(4) A person may transport liquor within a restricted or prohibited area for a purpose mentioned in subsection (2) or (3) if no liquor is consumed or disposed of during transportation.

## Liquor being transported

(5) A person may transport and possess liquor in an airport, harbour or dock within a restricted or prohibited area or on an aircraft or vessel travelling between a restricted or prohibited area and a place outside the area if

- (a) the liquor is being transported to a destination outside the area;
  - (b) the liquor is in the original sealed container and the seal on the container remains unbroken;
  - (c) no liquor is consumed or disposed of within the area; and
  - (d) no liquor is removed from an aircraft or vessel transporting it.
- S.Nu. 2006,c.9,s.9; S.Nu. 2010,c.25,s.34.

## MISCELLANEOUS

**52. (1) Repealed, S.Nu. 2018,c.7,s.69(11)(a).**

## Civil liability

**52.** Where a licence holder, an employee or agent of the licence holder knowingly sells liquor to or for a person who is in such an intoxicated condition that the consumption of liquor would apparently increase his or her intoxication so that he or she would be in danger of causing injury to his or her person or injury or damage to the person or property of others, if the person to or for whom the liquor is sold, while so intoxicated

- (a) commits suicide or meets death by accident, an action under the *Fatal Accidents Act* lies against the licence holder who or whose employee or agent sold the liquor; or
- (b) causes death, injury or damage to the person or property of another person, that other person or his or her estate is entitled to recover

from the licence holder who or whose employee or agent sold the liquor, an amount by way of compensation for the death, injury or damage.

S.Nu. 2018,c.7,s.69(11).

#### Appointment of inspectors

**53.** (1) The Minister may appoint the inspectors that are necessary to enforce this Act and the regulations.

#### Powers and duties of inspectors

(2) An inspector may exercise the powers and shall perform the duties that may be prescribed under section 11.

#### Obstruction

(3) No person shall hinder, obstruct or interfere with an inspector in the exercise of his or her powers or in the performance of his or her duties under this Act or the regulations. S.N.W.T. 1998,c.21,s.12(7); S.Nu. 2006,c.9,s.9.1.

#### Regulations

**54.** The Commissioner, on the recommendation of the Minister, may make regulations

- (a) establishing any new class or classes of licence, which shall be deemed to be an inclusion in section 13;
- (a.1) establishing a subclass of licence which
  - (i) authorizes the licence holder to allow persons under the age of 19 years to enter and remain in the licensed premises, and
  - (ii) shall be deemed to be an inclusion in subsection 13(1);
- (b) specifying the communities in Nunavut in which off-premises licences may be issued;
- (c) respecting the issuing of liquor import permits, wine permits, special permits and brewery permits;
- (c.1) prescribing offences referred to in paragraph 16.1(h);
- (c.2) respecting the application for the issue or renewal of a brewery permit;
- (c.21) prescribing communities for the purposes of subsection 16.31(1);
- (c.3) prescribing fees, or a formula for determining fees, for the issue or renewal of a brewery permit or for the issue or transfer of shares under section 16.7;
- (c.4) prescribing the manner of bottling and labelling beer manufactured at a brewery;
- (c.5) providing for the adequate inspection of a brewery;
- (c.6) requiring the preparation and filing of returns or reports respecting the quantity of production of beer at a brewery and the sale or other disposition of beer produced at a brewery;

- (d) fixing the fees to be paid to the returning officers and other officials where a plebiscite is held;
  - (e) respecting the disposal of forfeited articles or vehicles;
  - (f) governing the rules and operation of alcohol education committees;
  - (g) establishing an alcohol education committee in any community;
  - (h) exempting any type of liquid from the definition of "liquor" in subsection 1(1);
  - (i) exempting parks or D.E.W. Line stations in Nunavut from any regulations that prohibit or restrict the purchase or consumption of alcohol;
  - (j) governing the procedure to be followed when a plebiscite is held;
  - (k) prescribing the form of ballots and other documents to be used for a plebiscite;
  - (l) prescribing the method by which notice of a plebiscite shall be given;
  - (m) generally, regarding plebiscites;
  - (n) prescribing any matter or thing that by this Part may or is to be prescribed; and
  - (o) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- S.N.W.T. 1991-1992,c.38,s.16,17; S.N.W.T. 1998,c.21,s.12(8); S.Nu. 2006,c.9,s.2,10.

## PART II

### INTERPRETATION

#### Definition of "Minister"

**55.** In this Part, "Minister" means the Minister who is assigned the responsibility for this Part.

### ADMINISTRATION

#### Duties of Minister

**56.** (1) The Minister shall

- (a) operate liquor stores;
- (b) purchase, sell, classify and distribute liquor in Nunavut; and
- (c) administer this Part.

#### Liquor and Cannabis Commission

(2) The Liquor and Cannabis Commission is established.

#### Delegation of duties

(2.1) The Minister may delegate to the Commission any of the duties of the Minister under subsection (1).

#### Direction of Minister

(3) The Commission, in exercising its powers and performing its duties under this Act and the regulations, shall act under the direction of the Minister.

#### Employees of Commission

(4) The employees of a Commission are members of the public service.

#### Liability of vendor and others

(5) No proceedings lie against a vendor or any person appointed under subsection (4) for anything done or omitted to be done in good faith under or in the exercise of his or her powers or performance of his or her duties under this Act, the regulations, the *Cannabis Act* or its regulations. S.Nu. 2006,c.9,s.2,11; S.Nu. 2018,c.7,s.69(12),(13).

#### Refund of cost of liquor

**57.** (1) Where liquor delivered or removed under section 38 is suitable for resale by the Government of Nunavut and has been lawfully acquired by the licence holder, the Commission shall direct that the costs of that liquor be refunded to the licence holder.

#### Where liquor to be destroyed

(2) Any liquor delivered or removed under section 38 that, in the opinion of the Minister is not suitable for resale, shall be forfeited to the Government of Nunavut to be destroyed or otherwise disposed of under the direction of the Minister in accordance with the regulations. S.Nu. 2006,c.9,s.2; S.Nu. 2018,c.7,s.69(14)(a).

#### Revenue from sale of liquor

**58.** (1) All moneys received from the sale of liquor shall be deposited to the credit of the Government of Nunavut in a special account called the Liquor Revolving Fund.

#### Other revenue

(2) Subject to subsection (1), all other moneys derived from the administration of this Part or the regulations made under this Part shall be deposited in the Consolidated Revenue Fund.

#### Transfer of funds

(3) The Commission shall quarterly, or at such other times as are necessary, transfer from the Liquor and Cannabis Revolving Fund to the General Account in the Consolidated Revenue Fund an amount equal to 1/4 of the estimated net annual revenue resulting from the administration of this Act, the regulations, the *Cannabis Act* and its regulations concerning the purchase and sale of liquor and cannabis, but the total amount so transferred shall not exceed the net revenue of the fiscal year established by audit. S.Nu. 2006,c.9,s.2; S.Nu. 2018,c.7,s.69(14)(b),(15),(16)(a).

### Expenses

**59.** All sums necessary for the purchase of liquor and cannabis and other necessary expenses concerning the purchase and sale of liquor and cannabis shall be paid out of the Liquor and Cannabis Revolving Fund. S.Nu. 2018,c.7,s.69(16)(b),(17)(a).

### Social responsibility campaigns

**59.1** Sums in the Liquor and Cannabis Revolving Fund may be used for expenses related to education campaigns promoting the socially responsible use of liquor and cannabis, up to the prescribed amount. S.Nu. 2013,c.24,s.2; S.Nu. 2018,c.7,s.69(16)(c),(17)(b).

### Interim reports

**60.** (1) The Commission shall, at the request of the Minister, submit to the Minister a report when a transfer of funds referred to in subsection 58(3) is made.

### Content of report

(2) The report referred to in subsection (1) shall include a statement of income presenting fairly the operating results of the Commission for the period covered by the report and the amount of income transferred to the General Account in the Consolidated Revenue Fund for the period.

### Annual report of Commission

**61.** (1) The Commission shall prepare an annual report and submit it to the Minister in accordance with this section and Part IX of the *Financial Administration Act*.

(2) **Repealed, S.Nu. 2018,c.7,s.69(18).**

### Tabling

(3) The Minister shall table a copy of the report referred to in subsection (1) before the Legislative Assembly at the first session of the Legislative Assembly after receipt of the report by the Minister.

### Content of report

(4) The report referred to in subsection (1) shall include the financial statements of the Commission and the report of the auditor.

### Financial statements

(5) The financial statement referred to in subsection (4) shall be prepared in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding year and shall include

- (a) a balance sheet that presents fairly the financial position at the end of the accounting period;
- (b) a statement of income that presents fairly the operating results for the accounting period and the amount of income to be transferred to the Government of Nunavut for that period;

- (c) a statement of changes in financial position that presents fairly the changes in financial position for the accounting period; and
- (d) any other notes that may be necessary to present fairly the information contained in financial statements.

#### Auditor

(6) The auditor shall be the person appointed as auditor by the Minister.

#### Production of records, documents, etc.

(7) The auditor may require the officers and employees appointed under subsection 56(4)

- (a) to produce all records, documents, books, accounts and vouchers kept in respect of the administration of this Part; and
- (b) to provide the information and explanations that the auditor considers necessary.

#### Report to Minister

(8) The auditor shall report annually to the Minister on the results of the examination of the accounts and financial statements of the Commission and the report shall state whether in the opinion of the auditor

- (a) the financial statements present fairly the financial position at the end of the fiscal year and the results of the operations and the changes in financial position for that year in accordance with generally accepted accounting principles applied on a basis consistent with that of the immediately preceding year,
- (b) proper books of account have been kept and the financial statements are in agreement with the books of account, and
- (c) the transactions that have come under the notice of the auditor are in accordance with
  - (i) this Act, the regulations, the *Cannabis Act* and its regulations,
  - (ii) the *Financial Administration Act* and the regulations made under it,
  - (iii) any directives issued under the *Financial Administration Act* to the Commission, and
  - (iv) any direction provided to the Commission under this Act or the *Cannabis Act*.

#### Auditor's responsibility

(9) As part of the report under subsection (8), the auditor shall call attention to any other matter within the scope of the examination of the auditor that, in the auditor's opinion, should be brought to the attention of the Legislative Assembly.

S.Nu. 2006,c.9,s.2; S.Nu. 2018,c.7,s.69(18),(19),(20).



## LIQUOR STORES

### Liquor stores

**62.** (1) The Minister may establish liquor stores for the purpose of selling liquor to persons eligible to purchase liquor in accordance with this Act and the regulations.

### Minister may designate vendors

(2) Subject to subsection (3), the Minister may designate employees of the Government of Nunavut as vendors who shall have authority to sell liquor at a liquor store, other than a store operated by an Agent, to any person who is eligible to purchase liquor in accordance with this Act and the regulations.

### Age of vendors

(3) No person under the age of 19 years shall be designated as a vendor.  
S.Nu. 2006,c.9,s.2.

### Agents

**63.** (1) The Minister may appoint a person to act as Agent in a particular place in Nunavut to sell liquor in that place.

### Age of Agents

(2) No person under the age of 19 years shall be appointed as an Agent.

### Agreements

(3) The Minister may enter into an agreement with an Agent respecting the sale of liquor and the operation of a liquor store.

### Compliance with Act, regulations and agreements

(4) An Agent is subject to this Act, the regulations and, where the Minister enters into an agreement with an Agent, the terms and conditions that the Minister stipulates in the agreement.

### Revocation of Agents

(5) The Minister may, in the absolute discretion of the Minister, revoke the appointment of an Agent and may require the Agent

- (a) to provide a strict accounting of all funds; and
- (b) to return all liquor held by him or her as Agent to the place that the Commission may designate.

### Removal by Commission or Minister

(6) Where an Agent refuses to comply with an order made under paragraph (5)(b), the Commission may arrange for the removal of all liquor under the possession and control of the Agent, and the Agent shall be responsible for the costs incurred by the Commission. S.Nu. 2006,c.9,s.2; S.Nu. 2018,c.7,s.69(14)(c),(21).

#### Arrangements with provinces and territories

**64.** Where it is not feasible to supply the required liquor from a liquor store, the Commissioner may enter into agreements with a liquor board, commission or other similar body in a province or another territory for the importation of liquor by a person in Nunavut or by a liquor store in Nunavut. S.Nu. 2006,c.9,s.2.

#### Method of delivery

**65.** Delivery of liquor purchased from a liquor store may, subject to this Act and the regulations, be effected by

- (a) the purchaser or his or her authorized agent carrying it away with him or her, if the purchaser has purchased the liquor under
  - (i) a licence,
  - (ii) a special permit issued under paragraph 15(1)(c), or
  - (iii) a special occasion permit issued under subsection 15(4);
- (a.1) the purchaser carrying it away with him or her, if the purchaser has purchased liquor from a liquor store designated under the regulations;
- (b) delivering it to a common carrier on consignment to the purchaser at an address within Nunavut, on the condition that a list of purchasers is filed with the vendor or Agent or an employee of an Agent at the time of consignment, the vendor or Agent or employee of an Agent is satisfied that the list is a bona fide list of purchasers and the vendor or Agent or employee of an Agent has attached to the container a copy of the list;
- (c) mailing the liquor to the purchaser or some other person named by the purchaser at an address within Nunavut; or
- (d) authorizing the supplier of the liquor to deliver it to the purchaser or some other person named by the purchaser at a place designated by the purchaser.

S.Nu. 2006,c.9,s.2,12; S.Nu. 2013,c.24,s.3

#### Delivery of liquor to and from liquor store

**66.** Any person may, under the authority of the Minister, transport liquor

- (a) to any liquor store,
- (b) to or from any liquor warehouse established under this Act, or
- (c) from a liquor store to any place in Nunavut to which it may be lawfully delivered,

but no person shall break open or allow to be broken open any container containing liquor, or consume or use, or allow to be consumed or used, any liquor from any container while being so transported. S.Nu. 2006,c.9,s.2.

#### Transportation of liquor

**67.** (1) A purchaser of liquor under paragraph 65(a) or his or her duly authorized agent, or a purchaser of liquor under paragraph 65(a.1), may transport liquor from a liquor store to a place where the liquor may be lawfully consumed, and that transportation need not be direct if the container holding the liquor is unopened.

#### Transportation of liquor when moving from residence

(2) A person lawfully in possession of liquor may transport it when that person moves from a residence occupied by that person to a residence to be occupied by that person as his or her residence whether or not the container holding the liquor has been opened. S.Nu. 2006,c.9,s.13; S.Nu. 2013,c.24,s.4.

#### Taxi

**68.** Where a vendor or Agent or an employee of an Agent delivers liquor to the driver of a taxi for transportation to another common carrier under paragraph 65(b), the vendor or the Agent or an employee of the Agent shall seal the container containing the liquor and attach to the container an order that states the date and time at which the liquor was delivered to the driver of the taxi, and the driver of the taxi transporting the liquor shall not open the container or remove the order from the container.

#### Prohibition on sale

**69.** No vendor or Agent or employee of a vendor or Agent shall sell liquor to a person who is under the apparent influence of alcohol or other drugs. S.Nu. 2018,c.8,s.11(2)(c).

#### Regulations

**70.** (1) The Commissioner, on the recommendation of the Minister, may make regulations

- (a) determining the nature, form and capacity of the packages to be used for holding liquor kept for sale or sold under this Act, and the manner in which those packages are closed, fastened or sealed;
- (b) determining the classes, varieties and brands of liquor to be kept for sale in liquor stores and the prices to be charged for them;
- (c) respecting the purchasing, importing and the possession of liquor by a vendor or Agent for the purpose of selling that liquor and the selling of liquor in accordance with this Act;
- (d) providing for the keeping of liquor in, and the delivery of liquor to or from, any liquor store or warehouse established under this Act, and the procuring of all furnishings and fixtures;
- (e) providing for the maintenance, construction, acquisition or leasing of premises for liquor stores and liquor warehouses;
- (f) concerning the general administration of this Part;
- (g) controlling the operation of liquor stores;
- (h) governing the disposal of liquor and containers that have been forfeited under this Act;
- (i) determining the nature, form and capacity of containers of liquor to be kept for sale and the manner in which the containers shall be closed;
- (j) the fixing of the days and hours at which a liquor store may be kept open for the sale of liquor or may be closed;
- (k) fixing the quantities of liquor that may be sold to any one person at any liquor store;

- (l) controlling and regulating the business activities of agents or representatives of liquor manufacturers or importers;
- (m) providing that a person shall not take possession of liquor purchased at any liquor store until up to 24 hours after it is ordered;
- (n) respecting mail order purchases, including forms to be used for those purchases and the manner and form of proof of age required for those purchases;
- (o) designating liquor stores from which purchasers may personally carry away liquor;
- (p) restricting the classes and varieties of liquor that may be carried away under paragraph 65(a.1) from any particular designated liquor store; and
- (q) respecting the amount of sums in the Liquor and Cannabis Revolving Fund that may be used for education campaigns promoting the socially responsible use of liquor and cannabis.

#### Retroactivity and previous regulations

(2) Notwithstanding any other provision of this Act, regulations made under paragraph (1)(k) may be made and given retroactive effect and any regulations prescribing the amounts of liquor that may be sold to any one person at any liquor store that were made before April 1, 1984, shall have effect and be of the same force as if made by the Commissioner, on the recommendation of the Minister, on or after April 1, 1984; S.Nu. 2013,c.24,s.5; S.Nu. 2018,c.7,s.69(16)(d),(17)(c).

### PART III

#### ELIGIBILITY

##### Eligible to possess and consume liquor

**71.** No person shall consume, possess, purchase, sell, transport, import or use liquor in Nunavut unless authorized to do so by this Act or the regulations. S.Nu. 2006,c.9,s.2.

##### Persons eligible to purchase liquor

**72.** (1) Subject to this Act and the regulations, every person except

- (a) a person under the age of 19 years,
- (b) an interdicted person, and
- (c) a person under the apparent influence of liquor or other drugs,

is eligible to purchase liquor from a liquor store or from a licence holder and possess and use it in accordance with this Act and the regulations.

##### Person whose eligibility to purchase liquor has been withdrawn

(2) A person whose eligibility to purchase and consume liquor has been withdrawn by a locally elected alcohol education committee in the settlement, municipality or area where the person is ordinarily resident, is not eligible to purchase liquor from a liquor store or from a licence holder and possess and use it in the settlement, municipality or area where the person is ordinarily resident.

### Proof of age

(3) Where a vendor or an Agent or an employee of an Agent is not satisfied that a person applying to purchase liquor has attained 19 years of age, he or she shall require the person to produce evidence of the age of that person satisfactory to the vendor or Agent or employee, and until that evidence is produced, that person is not eligible to purchase liquor from the liquor store. S.Nu. 2018,c.8,s.11(2)(c).

### Eligibility to purchase

**73.** Subject to this Act and the regulations, a person who is eligible to purchase liquor at a liquor store may

- (a) purchase, possess and consume liquor in any licensed premises;
- (b) consume liquor in a residence when it is given to that person by a person who is eligible to purchase liquor at a liquor store; and
- (c) possess and consume in his or her residence, beer lawfully brewed by him or her or by a member of his or her family who lives with him or her in the same residence.

### Gifts of liquor

**74.** (1) Subject to subsection (2), a person may make or receive a bona fide gift of liquor

- (a) if the person making the gift of liquor is in lawful possession of the liquor, and
- (b) if the person receiving the gift of liquor is not a person who is prohibited from possessing or consuming liquor,

and the person receiving the gift of liquor may possess, transport or consume liquor received under this section as if he or she had purchased it in accordance with this Act and the regulations.

### Exception

(2) No manufacturer of liquor, or an employee or agent of a manufacturer, shall make a gift of liquor to any person except as permitted by and in accordance with the regulations.

### Imported liquor

**75.** (1) A person who is eligible to purchase liquor at a liquor store may, without a permit, personally import into Nunavut and lawfully possess and use three litres of spirits, nine litres of wine or 26 litres of beer if

- (a) the liquor was purchased outside Canada and has been stamped or marked by a Canadian customs officer; or
- (b) the liquor was purchased from a retail outlet or liquor board, commission or similar body in a province or another territory.

### Liquor import permit

(2) A person who has been issued a liquor import permit under paragraph 15(1)(a) may, in accordance with this Act, the regulations and the terms and conditions set out in the permit, import into Nunavut and lawfully possess and use

- (a) liquor purchased from a retail outlet or liquor board, commission or similar body in a province or another territory; and
- (b) beer purchased from a brewery in a province or another territory.  
S.Nu. 2006,c.9,s.14; S.Nu. 2013,c.24,s.6.

### Sacramental purposes

**76.** (1) A person may, for medicinal or sacramental purposes, supply or administer liquor to any person.

### Burden of proof

(2) The burden of proving that the supplying or administering of liquor was for medicinal or sacramental purposes is on the person who supplied or administered it, and a justice who tries a case may draw inferences of fact from the frequency with which the liquor was supplied or administered and from the amount of liquor so used, and from the circumstances under which it was used.

### Pharmaceutical preparations and patent medicines

**77.** Notwithstanding anything in this Act, any person may sell, purchase or consume

- (a) any pharmaceutical preparation containing liquor that is prepared by a pharmaceutical chemist according to a formula recognized by the profession of pharmaceutical chemists; or
- (b) any proprietary medicine as defined in the regulations made under the *Food and Drugs Act* (Canada).

### Substance containing alcohol

**78.** (1) Where any substance contains alcohol and also contains ingredients or medication that makes it unsuitable as a beverage, a druggist or any person who manufactures or deals in the substance may purchase or use it for any purpose other than a beverage.

### Where unreasonable quantities sold

(2) Where a justice hearing a complaint in respect of selling, buying or consuming a substance referred to in subsection (1) is of the opinion that an unreasonable quantity of the substance was sold to a person, either once or at intervals, the person selling the substance may be convicted of selling liquor contrary to this Act, and every person who obtains or consumes the substance for beverage purposes, is guilty of an offence.

### Purpose of manufacture

(3) For the purpose of subsection (2), a justice shall have regard to the legitimate purposes for which the substance was manufactured.

## Liquor in taxi

- 79.** No person shall transport, carry or have liquor in a vehicle licensed as a taxi unless the liquor is
- (a) in the possession of a bona fide paying passenger in the vehicle; or
  - (b) for transportation to a common carrier for delivery under paragraph 65(b).

## Intoxicated condition

- 80.** (1) No person shall be in an intoxicated condition in a public place.

## Prosecution

(2) No charge in respect of an offence under subsection (1) shall be laid except with the approval of the Minister responsible for the administration of justice in Nunavut. S.Nu. 2006,c.9,s.2.

## Temporary custody for person found intoxicated in public place

- 81.** (1) Where a peace officer finds a person who, in the opinion of the peace officer, is in an intoxicated condition in a public place and is likely to cause injury to himself or herself or to be a danger, nuisance or disturbance to others, the peace officer shall apprehend the person and deal with him or her in accordance with this section.

## Prosecution

(2) A peace officer shall not seek the approval of the Minister under subsection 80(2) to lay a charge against a person who contravenes subsection (1) unless exceptional circumstances exist that would warrant the prosecution of the offence.

## Length of custody

(3) A person apprehended under subsection (1) shall not be held in custody for more than 24 hours after being apprehended.

## Release from custody

- (4) A person apprehended under subsection (1) shall be released from custody, at any time, if in the opinion of the person responsible for his or her custody,
- (a) the person in custody has recovered sufficient capacity and is unlikely to cause injury to himself or herself or be a danger, nuisance or disturbance to others; or
  - (b) a person capable of taking care of the person in custody undertakes to do so.

## Exemption from liability

**82.** No action lies against a peace officer or other person for anything done in good faith with respect to the apprehension, custody or release of a person under section 81.

## Power to exempt areas

**83.** The Minister may by order exempt an area or areas of Nunavut from the application of sections 80 and 81 and may amend or revoke the order.

S.Nu. 2006,c.9,s.2.

## UNLAWFUL MANUFACTURE OF BEER

## Unlawful manufacture of beer

**83.1.** Except as provided in this Act or the regulations, no person shall manufacture beer for a commercial purpose. S.N.W.T. 1991-1992,c.38,s.18.

## UNLAWFUL SALE AND SUPPLY

## Unlawful sale of liquor

**84.** Except as provided in this Act or the regulations, no person shall

- (a) expose liquor for sale;
- (b) keep liquor for sale; or
- (c) sell or offer to sell liquor.

## Definition of "parent"

**85.** (1) For the purposes of paragraphs (4)(a) and (b), "parent" includes a person who has lawful custody, or who is responsible for the care and upbringing, of a person under the age of 19 years.

## Supplying to person under 19 years

(2) No person shall sell or supply liquor to a person under the age of 19 years.

(3) **Repealed, S.N.W.T. 1994,c.19,s.9.**

## Exemption

(4) This section does not apply to supplying a person under the age of 19 years

- (a) with liquor in the home of that person or in a residence by his or her parent;
- (b) with beer or wine at a social function respecting a wedding, anniversary, family reunion or birthday held in a licensed premises, where
  - (i) the entire public part of the licensed premises is reserved for the social function, and
  - (ii) the person is accompanied by his or her parent; or
- (c) with liquor for medicinal purposes administered by a physician or dentist.

(5) **Repealed, S.N.W.T. 1994,c.19,s.9.**

S.N.W.T. 1994,c.19,s.8,9; S.N.W.T. 1998,c.21,s.12(9);

S.N.W.T. 1998,c.17,s.19(2),(3).



## False information on mail applications

**86.** No person shall supply any false information on any mail order application or complete any form in a misleading or false manner.

## Supplying interdicted persons

**87.** No person shall knowingly procure or sell or give to an interdicted person liquor, or directly or indirectly assist in procuring, selling or giving liquor to an interdicted person except liquor

- (a) supplied to an interdicted person on the prescription of a physician; or
- (b) administered to the interdicted person by a physician or dentist under this Act.

## UNLAWFUL PURCHASE AND POSSESSION

## Unlawful possession

**88.** No person shall have liquor in his or her possession other than in a place where he or she is authorized to be in possession of liquor under this Act or the regulations.

## Persons under the age of 19 years

**89.** No person under the age of 19 years shall purchase or attempt to purchase liquor or have liquor in his or her possession.

## Unlawful possession

**90.** No person shall have or keep liquor that has not been purchased or obtained in a manner authorized by the law.

## Unlawful purchase

**91.** No person shall purchase or attempt to purchase liquor from a person who is not authorized to sell liquor under this Act and the regulations.

## UNLAWFUL CONSUMPTION

## Unlawful consumption

**92.** (1) Except as provided by this Act, no person shall consume liquor in a public place.

## Evidence of unlawful consumption

(2) The possession by a person in a public place, other than licensed premises, of liquor in any container other than

- (a) a bottle that because of the condition of any seal or covering on the neck or cap appears not to have been opened,
- (b) a beer bottle from which the cap has not been removed, or
- (c) a beer can that has not been punctured or opened in any way

is, in the absence of evidence to the contrary, proof that the person was consuming liquor in that public place.

**Public place**

(3) A public place that allows the public access during certain hours only does not as a result of that cease to be a public place during other hours.

**Common rooms**

(4) A common room or party room in an apartment is not a public place so long as it is used by tenants of the building for their own purposes.

**Unlawful consumption**

**93.** (1) No person under the age of 19 years shall consume liquor.

**Exemption**

(2) Subsection (1) does not apply where liquor is supplied to a person under the age of 19 years under section 76 or subsection 85(4).

**Unlawful consumption by interdicted person**

**94.** No interdicted person shall consume liquor except liquor that is supplied or administered to him or her by a physician or a dentist for medicinal purposes, or for sacramental purposes under subsection 76(1).

**Unlawful consumption**

**95.** No person shall consume in his or her residence any liquor that has not been lawfully had or acquired.

**LICENSED PREMISES****What liquor may be sold**

**96.** No liquor shall be kept for sale, sold or served in any licensed premises except liquor

- (a) that may, under the licence, be sold in the licensed premises; and
- (b) that is purchased by the licence holder in accordance with this Act and the regulations.

**Liquor not to be sold**

**97.** No liquor shall knowingly be sold or served in any licensed premises to a person who is not entitled to consume liquor in the premises.

**Sale to intoxicated persons**

**98.** (1) No liquor shall be sold or supplied in any licensed premises to or for a person who is apparently in an intoxicated condition.

**Prohibitions**

(2) No licence holder shall allow in the premises for which the licence is issued

- (a) any gambling or any riotous, quarrelsome, violent or disorderly conduct to take place;
- (a.1) any person in an intoxicated condition; or
- (b) any slot machine or device used for gambling.

#### Persons under 19 years on licensed premises

(3) Except as authorized by or under this Act or the regulations, no licence holder shall allow any person under or apparently under the age of 19 years to remain in that part of the licensed premises where liquor is sold or kept for sale unless that person has in fact attained the age of 19 years.

#### Request for proof of age

(3.1) Where a licence holder or an employee or agent of the licence holder is not satisfied that a person in the licensed premises has attained the age of 19 years, he or she may require the person to produce evidence of the age of that person satisfactory to the licence holder or employee or agent, and if the evidence is not produced, the licence holder or employee or agent shall request the person to leave the licensed premises immediately.

#### Entertainment by persons under 19 years

(4) Nothing in this section prohibits a person under the age of 19 years from entering and remaining in a licensed premises for the purpose of providing entertainment.

#### Objectionable persons

(5) A licence holder or an employee or agent of the licence holder who has reasonable grounds to suspect from the conduct of a person who has come into the licensed premises that the person, although not of notoriously bad character, is present for some improper purpose or is committing an offence under this Act or the regulations, may request the person to leave the licensed premises immediately and, unless the request is complied with without delay, the person shall be forcibly removed with the force that is reasonably necessary.

#### Persons forbidden to remain on licensed premises

(6) No person shall

- (a) remain in licensed premises after having been requested to leave the premises by the licence holder or an employee or agent of the licence holder; or
- (b) enter licensed premises for the remainder of the licensed hours of the day after having been requested to leave the premises by the licence holder or an employee or agent of the licence holder on that day.

S.N.W.T. 1998,c.21,s.12(10); S.Nu. 2018,c.7,s.69(23),(24).

#### Persons under 19 years on licensed premises

**99.** (1) Where a licence holder is authorized by or under this Act or the regulations to allow any person under the age of 19 years to enter and remain in the licensed premises, any such person may enter and remain in the licensed premises.

### Prohibition

(2) Except as authorized by or under this Act or the regulations, no person under the age of 19 years shall enter or remain in a licensed premises.

### Request for proof of age

(3) Where an inspector is not satisfied that a person in a licensed premises has attained the age of 19 years, the inspector may require the person to produce evidence of the age of that person satisfactory to the inspector. S.N.W.T. 1998,c.21,s.12(11).

### Sale and consumption

**100.** No liquor shall be sold or served to or consumed by any person in a licensed premises except in accordance with this Act.

### Neglect of children

**101.** No person who

- (a) is a parent of a child under the age of eight years,
- (b) has lawful custody of a child under the age of eight years, or
- (c) is the head of a family and responsible for the care of a child under the age of eight years,

shall enter or be in a licensed premises when that person knows that the child is unattended by a competent person. S.N.W.T. 1998,c.17,s.19(4).

### Inducements to licence holders

**102.** (1) No person shall, either directly or indirectly, offer or give any financial or material inducement to a licence holder or an employee or agent of a licence holder for the purpose of increasing the sale or distribution of any brand of liquor, whether the inducement is by way of discount, rebate, sale under the established price for products of the same or a similar quality or by the installation of equipment or other form of payment or benefit.

### Prohibition against taking inducements

(2) No licence holder or employee or agent of a licence holder shall, either directly or indirectly, request, demand or receive any financial or material inducement mentioned in subsection (1).

### Exception

(3) This section does not apply in respect of the authorized sale under a brew pub licence or an off-premises licence of beer manufactured by the holder of that licence under a brewery permit. S.N.W.T. 1991-1992,c.38,s.19.

### Prohibition against interdicted persons

**103.** No interdicted person shall enter or be in licensed premises, except in a dining room or dining lounge.

## INTERDICTION

### Order of interdiction

**104.** (1) Where it appears to the satisfaction of a justice that a person who resides or sojourns in Nunavut, by excessive drinking of liquor

- (a) misspends, or wastes or unduly lessens his or her estate,
- (b) injures his or her health, or
- (c) interrupts the peace and happiness of his or her family,

the justice may make an order of interdiction directing the cancellation of any permit held by that person and prohibiting the sale of liquor to, and the possession and consumption of liquor by, that person for a period not exceeding three years from the date of the order.

### Natural justice

(2) For the purposes of subsection (1), a justice may conduct a hearing where the justice considers it appropriate and the hearing must be conducted in accordance with the rules of natural justice.

### Filing of order

(3) Where a justice makes an interdiction order under subsection (1), the justice must file the order with the Board.

### Powers of justice

(4) A justice acting under subsection (1) has the power

- (a) to compel the attendance of witnesses, other than the person who is the subject of the hearing;
- (b) to order the production of documentary or other evidence; and
- (c) to take any other steps that are necessary for a full and proper hearing.

### Offence and punishment

(5) Every person who is the subject of an order of interdiction under this section and who breaches an order made under this section is guilty of an offence and liable on summary conviction to a fine not exceeding \$100, or to a community work order that the justice considers appropriate, and in default of payment of the fine or completing the work order, to imprisonment for a term not exceeding seven days. S.Nu. 2006,c.9,s.2.

### Setting aside order of interdiction

**105.** On application, an order of interdiction made under section 104 may be set aside

- (a) by the justice who made the order, at any time; or
- (b) by a judge, where satisfied that
  - (i) the circumstances of the case did not warrant the making of the order, or

- (ii) the person in respect of whom the order was made has refrained, for at least six months before the application, from doing all of those things that caused the order to be made.  
S.N.W.T. 1998,c.34,Sch.C,s.19.

#### Notification of order

**106.** A copy of every order of interdiction and order setting aside an order of interdiction must be filed with the Board who shall without delay notify the Commission and all vendors, Agents and licence holders of the order. S.Nu. 2018,c.7,s.69(10)(b).

### SEARCH, SEIZURE AND FORFEITURE

#### Search

- 107.** (1) A peace officer may, at any time,
- (a) without a warrant, enter and search any vehicle in which the peace officer has reasonable grounds to believe that liquor is unlawfully kept or had, or kept or had for unlawful purposes, and, subject to section 112, search any person found in that vehicle; and
  - (b) under the authority of a warrant issued under subsection (3), enter and search any residence, building or place in which the peace officer has reasonable grounds to believe that liquor is unlawfully kept or had, or kept or had for unlawful purposes, and, subject to section 112, search any person found in that residence, building or place.

#### Seizure

- (2) A peace officer who has made a search under subsection (1) may at any time seize and take away
- (a) any liquor and packages in which the liquor is kept contrary to this Act or the regulations; and
  - (b) any book, paper or thing that the peace officer reasonably believes may be evidence of the commission of an offence under this Act.

#### Search warrant

(3) Where, on an *ex parte* application, a justice is satisfied by information on oath that there are reasonable grounds to believe that liquor is unlawfully kept or had, or kept or had for unlawful purposes, in a residence, building or place, the justice may issue a warrant authorizing a peace officer named in the warrant at any time, including Sunday or other holiday, and by day or by night, to enter the residence, building or place and search for liquor.

#### Exercise of authority by peace officer

(4) For the purpose of exercising his or her authority under subsection (3), a peace officer may, with the assistance that the peace officer considers necessary, break open any door, window, lock, fastener, floor, wall, ceiling, compartment, plumbing fixture, box, container or any other thing.

**Note:** On a day to be fixed by order of the Commissioner, the following is added after subsection 107(1):

Special by-law officer

(1.1) A special by-law officer may, at any time and without a warrant, enter and search any vehicle in a prohibited area referred to in subsection 49.1(1), where the special by-law officer has reasonable grounds to believe that liquor is unlawfully kept or had, or kept or had for unlawful purposes in the vehicle.

*See S.N.W.T. 1995,c.9,s.4.*

**Note:** On a day to be fixed by order of the Commissioner, subsection 107(2) is amended by

- (a) striking out that portion preceding paragraph (a) and by substituting the following:

Seizure

(2) A peace officer or a special by-law officer may, in the performance of a search under subsection (1) or (1.1), seize

- (b) adding "or the special by-law officer" after "the peace officer" in paragraph (b).

*See S.N.W.T. 1995,c.9,s.5.*

**Note:** On a day to be fixed by order of the Commissioner, the following is added after section 107:

Direction to stop

**107.1.** (1) A peace officer or a special by-law officer may, for the purposes of conducting a search of a vehicle under subsection 107(1) or (1.1), direct the driver of the vehicle to stop and park the vehicle.

Duty to comply

(2) The driver of a vehicle who is directed to stop and park the vehicle by a peace officer or a special by-law officer under subsection (1) shall comply with the direction.

**Permission to move**

(3) No person shall move a vehicle that is being searched under subsection 107(1) or (1.1) until permitted to do so by the peace officer or special by-law officer conducting the search.

**Assistance**

(4) The driver and occupants of a vehicle and any person loading or unloading a vehicle that is being searched under subsection 107(1) or (1.1) shall provide all reasonable assistance in their power to the peace officer or special by-law officer conducting the search.

*See S.N.W.T. 1995,c.9,s.6.*

**Application for restoration**

**108.** (1) Where liquor or any other thing has been seized under subsection 107(2), any person may within 30 days after the date of the seizure, apply to a justice for an order of restoration under subsection (2).

**Hearing**

(2) Where, on the hearing of an application under subsection (1), the justice is satisfied that

- (a) the applicant is entitled to possession of the liquor or other thing seized, and
- (b) the liquor or other thing seized is not required as evidence in any proceedings in respect of an offence under this Act,

the justice shall order that the liquor or other thing seized be restored without delay to the applicant and, where the justice is satisfied that the applicant is entitled to the possession of the liquor or other thing seized but is not satisfied as to the matter mentioned in paragraph (b), the justice shall order that the liquor or other thing seized be restored to the applicant

- (c) on the expiration of three months after the date of the seizure, if no proceeding in respect of an offence under this Act has been commenced, or
- (d) if a proceeding has been commenced in respect of an offence under this Act, on the final conclusion of the proceeding.

**Forfeiture**

(3) Where

- (a) no application is made for the return of any liquor or other thing seized under subsection 107(2), or
- (b) an application is made but on the hearing of the application no order of restoration is made,

the liquor or other thing seized is forfeited to the Government of Nunavut and shall be disposed of by the Commission in accordance with the regulations.



#### Forfeiture on conviction

(4) Where a person is convicted of an offence under this Act or the regulations, any liquor or other thing seized under subsection 107(2) by means of which the offence was committed is forfeited to the Government of Nunavut and shall be disposed of by the Commission in accordance with the regulations. S.Nu. 2006,c.9,s.2; S.Nu. 2018,c.7,s.69(10)(c).

#### Report of seizure

**109.** Where liquor is seized by a peace officer, the peace officer shall without delay make an inventory of the liquor and a report, in writing, of the seizure to the Commission. S.Nu. 2018,c.7,s.69(10)(d).

**Note:** On a day to be fixed by order of the Commissioner, section 109 is amended by adding "or a special by-law officer" after "by a peace officer" and by adding "or special by-law officer" after "the peace officer".

*See S.N.W.T. 1995,c.9,s.7.*

#### Seizure of vehicle by officer

**110.** (1) A peace officer may seize any vehicle or article by means of or in relation to which the peace officer reasonably believes an offence under this Act or the regulations has been committed.

#### Detention

(2) Subject to this section, a vehicle or article seized under subsection (1) may be detained for three months following the date of seizure, unless during that period proceedings under this Act or the regulations are undertaken, in which case the vehicle or article may be further detained until the proceedings are finally concluded.

#### Application for return

(3) The owner or the agent of the owner, may apply to a judge of the Nunavut Court of Justice for the return of any vehicle or article seized under this section and the application shall be heard within seven days.

#### Considerations regarding return

(4) Where an application is made under subsection (3), the judge shall consider

- (a) whether the owner knew or ought to have known of the use to which the vehicle or article was put in connection with the alleged offence,
- (b) the hardship that the seizure will cause to the owner in light of the seriousness of the alleged offence, and
- (c) any other facts that are relevant to the application,

and may order the return of any vehicle or article seized on the conditions, including the posting of a surety bond, that the judge considers appropriate.

### Order of forfeiture

(5) Subject to this section, where a person is convicted of an offence under section 84, 85 or 87, in addition to any other punishment that may be imposed, any vehicle or article by means of which or in relation to which the offence was committed, may by order of a judge of the Nunavut Court of Justice be declared forfeited to the Commissioner, and may be disposed of in the manner and at the time and place that the Commissioner may direct, but no vehicle or article shall be disposed of pending an appeal against the conviction or before the time within which the appeal may be taken has expired.

### Considerations regarding forfeiture

(6) In deciding whether to order forfeiture under subsection (5) the judge shall consider

- (a) the nature of the offence;
  - (b) whether the owner of the vehicle or article knew or ought to have known that the vehicle or article was used in connection with an offence under section 84, 85 or 87; and
  - (c) the hardship that the forfeiture will cause to the owner in light of the connection of the owner to the offence in question.
- S.Nu. 2006,c.9,s.2.

## ARREST

### Arrest without warrant

**111.** A peace officer may arrest without a warrant a person whom the peace officer finds committing an offence under this Act or the regulations.

### Searches of opposite sex

**112.** Where a person suspected of an offence is of the opposite sex of the peace officer involved, the peace officer may, if the peace officer is of the opinion that a search is warranted, employ a person of the same sex as the person suspected of an offence to carry out the search and the person so employed has all the powers, privileges and immunities of a peace officer for that purpose.

### Officer may demand name and address

**113.** (1) A peace officer who, under this Act, enters a licensed premises or a residence, building or place and seizes liquor may

- (a) demand the name and address of any person found in the licensed premises, residence, building or place, whom the peace officer has reasonable grounds to believe has committed or is suspected to have committed an offence under this Act or the regulations; and
- (b) arrest that person without warrant, if the peace officer has reasonable and probable grounds to believe that the name or address given is false.

### Offence

(2) Every person found on premises described in subsection (1) who refuses to give his or her name and address to a peace officer when requested or who gives false information with respect to his or her name or address is guilty of an offence.

## OFFENCES AND PUNISHMENT

### Contravention of section 84, 85 or 87

**114.** (1) Every person who contravenes section 84, 85 or 87 is guilty of an offence and liable on summary conviction

- (a) if an individual
  - (i) for the first offence, to a fine of not less than \$5,000 and not exceeding \$25,000 or to imprisonment for a term not exceeding one year or to both, and
  - (ii) for each subsequent offence, to a fine of not less than \$10,000 and not exceeding \$50,000 or to imprisonment for a term not exceeding two years or to both; and
- (b) if a corporation
  - (i) for the first offence, to a fine of not less than \$10,000 and not exceeding \$50,000, and
  - (ii) for each subsequent offence, to a fine of not less than \$20,000 and not exceeding \$100,000.

### Contravention of section 98

(2) Every person who contravenes section 98 is guilty of an offence and liable on summary conviction

- (a) if an individual, to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or to both; and
- (b) if a corporation, to a fine not exceeding \$5,000.  
S.Nu. 2003,c.15,s.11; S.Nu. 2013,c.24,s.7.

### Contravention of subsection 93(1)

**115.** Every person who contravenes subsection 93(1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 or to a community work order that the justice considers appropriate, and in default of payment of the fine or completing the work order, to imprisonment for a term not exceeding seven days. S.Nu. 2003,c.15,s.12.

### General offence and punishment

**116.** Every person who contravenes a provision of this Act or the regulations for which no specific punishment is provided or a term or condition of a licence is guilty of an offence and liable on summary conviction

- (a) if an individual, to a fine of not less than \$500 and not exceeding \$5,000 or to imprisonment for a term not exceeding 30 days or to both; and
- (b) if a corporation, to a fine of not less than \$10,000 and not exceeding \$20,000.  
S.N.W.T. 1998,c.21,s.12(12); S.Nu. 2003,c.15,s.13.

### Ineligible to purchase

**117.** (1) Notwithstanding anything in this Act, a justice may, on conviction of a person other than a corporation, for contravening section 84, 85 or 87, in addition to any other punishment, make an order prohibiting that person from purchasing liquor from a liquor store

- (a) for the first offence, for a period not exceeding six months; and
- (b) for each subsequent offence, for a period not exceeding one year.

### Informing Board

(2) Where an order is made under subsection (1), the justice shall inform the person convicted of the order and, as soon as possible, forward to the Board a certified copy of the conviction and the order.

### Purchase in licensed premises by ineligible person

(3) Nothing in this section prevents a person prohibited from purchasing liquor from a liquor store under this section from purchasing liquor for consumption in licensed premises.

### Prohibition from operating taxi

**118.** (1) Notwithstanding anything in this Act, where a justice convicts a person for a contravention of section 68, 79, 84, 85, 87 or 88, and that person has been issued a class of driver's licence that permits the person to operate a taxi under the *Traffic Safety Act*, the justice shall, in addition to any other punishment, make an order

- (a) for the first offence, prohibiting that person from operating a taxi for one year;
- (b) for the second offence, prohibiting that person from operating a taxi for one year; and
- (c) for the third offence, prohibiting that person from operating a taxi permanently.

### Calculation of offences

(2) In calculating the number of offences under subsection (1), the justice shall not include an offence

- (a) for which a conviction was made before this section comes into force; or
- (b) for which a conviction is made after this section comes into force if the offence was committed before this section comes into force.  
R.S.N.W.T. 1988,c.106(Supp.),s.17; S.Nu. 2003,c.15,s.14;  
S.Nu. 2017,c.20,s.69.

#### Declaration by justice of residence as public place

**119.** (1) Where the occupant of a residence or any member of his or her family living in the residence or a lodger, boarder or tenant of the residence is convicted of

- (a) keeping a disorderly house as defined in the *Criminal Code*, or
- (b) contravening section 84, 85 or 87 in the residence or in any part of it or in respect of any liquor kept in the residence or removed from the residence,

the justice making the conviction may, by order, declare the residence or any part of it to be a public place for a period not exceeding one year from the date of the conviction.

#### Variation or rescinding of order

(2) The order referred to in subsection (1) may be varied or rescinded by a justice where the justice considers it just.

#### Procedure in respect of subsequent conviction

**120.** The proceedings on an information for an offence under this Act or the regulations in a case where a previous conviction or convictions may affect the fine, imprisonment or other punishment are as follows:

- (a) the justice shall in the first instance inquire concerning the offence with which the accused is charged only, and if the accused is found guilty of the offence, the accused shall then, and not before, be asked whether he or she was previously convicted and if the accused denies that he or she was previously convicted or does not answer the question, the justice shall then inquire concerning the previous conviction or convictions;
- (b) where a fine or the imprisonment or other punishment imposed on conviction for an offence becomes void or defective after the making of it for the reason that a previous conviction was set aside, quashed or otherwise rendered void, the justice by whom the subsequent conviction was made shall summon the person convicted to appear at a time and place set out in the summons and shall at that time and place, on the appearance of the person or on proof of the due service of the summons, if the person fails to appear, amend the fine, imprisonment or other punishment imposed on the subsequent conviction, and adjudge the fine, imprisonment or other punishment as it might have been adjudged had the previous conviction never existed, and the amended fine, imprisonment or other punishment shall upon that be held valid for all intents and purposes as if it had been made in the first instance;
- (c) where a person has been convicted for a contravention of section 84, 85 or 87 and is afterwards convicted for a contravention of any of these sections, a subsequent conviction shall be deemed to be a conviction for a subsequent offence within the meaning of this section and the person shall be dealt with and punished

- accordingly, although any such conviction may have been for an offence under a different section;
- (d) for the purposes of section 118, where a person has been convicted for a contravention of section 68, 79, 84, 85, 87 or 88 and is afterwards convicted for a contravention of any of these sections, the first subsequent conviction shall be deemed to be a conviction for the second offence and the second subsequent conviction shall be deemed to be a conviction for the third offence within the meaning of this section and the person shall be dealt with and punished accordingly, although any such conviction may have been for an offence under a different section.
- S.Nu. 2003,c.15,s.15.

#### Liability of corporation officials

**121.** (1) Where an offence under this Act or the regulations is committed by a corporation, the officer or employee of the corporation in charge of the premises in which the offence is committed shall

- (a) in the absence of evidence to the contrary, be deemed to be a party to the offence; and
- (b) be personally liable to the punishment for the offence as the principal offender.

#### Liability of corporation

(2) Nothing in subsection (1) relieves the corporation or the person who actually committed the offence from liability for the offence.

#### Liability of employer

**122.** Where an offence under this Act or the regulations is committed by an employee in the course of his or her employment by a licence holder under this Act, the licence holder shall, in the absence of evidence to the contrary, be deemed to be a party to the offence.

#### Description of offence

**123.** In a prosecution under this Act or the regulations, it is sufficient to state the sale, keeping, giving, purchasing or consuming of liquor without stating the name, kind of liquor, price of the liquor or consideration for the liquor.

#### Certificate of analyst

**124.** (1) In any proceedings under this Act or the regulations, a certificate purporting to be signed by an analyst appointed by the Board stating

- (a) that the analyst has performed a chemical analysis on any liquor or other fluid preparation, compound or substance, and
- (b) the result of the chemical analysis,

is, in the absence of evidence to the contrary, proof of the facts stated in the certificate without proof of the signature or the official character of the person appearing to have signed the certificate.

### Limitation

- (2) Subsection (1) does not apply in any proceedings unless
- (a) at least seven days notice in writing is given to the accused that it is intended to tender the certificate of an analyst in evidence; or
  - (b) the accused or the counsel of the accused have consented to the production in evidence of the certificate of an analyst without the notice referred to in paragraph (a).

### Inference respecting liquor

**125.** (1) The justice trying the case, in the absence of evidence to the contrary, is at liberty to infer that any liquor in question is liquor within the meaning of this Act from the fact that a witness describes it as liquor or by a name that is commonly applied to liquor.

### Deemed purchases

(2) A purchase made from a liquor store shall be deemed to be liquor within the meaning of this Act.

### Deposition of witness

**126.** In a prosecution under this Act or the regulations for the sale or keeping for sale or other disposal of liquor or the having, keeping, giving, purchasing or consuming of liquor, it is not necessary that a witness should depose to

- (a) the precise description or quantity of the liquor sold, kept for sale, disposed of, had, kept, given, purchased or consumed; or
- (b) the precise consideration, if any, received for the liquor.

### Circumstantial evidence

**127.** On the hearing of a charge of selling or purchasing liquor or of the unlawful having or keeping of liquor contrary to this Act or the regulations, the court may draw inference of fact

- (a) from the kind or quantity of liquor found in the possession of the person accused or in any building, premises, vehicle or place occupied or controlled by that person;
- (b) from the frequency with which liquor is received by the person accused or is received at, or in or removed from any building, premises, vehicle or place occupied or controlled by the person accused;
- (c) from the circumstances under which liquor was obtained or is kept or dealt with; and
- (d) in the case of a preparation or substance legitimately manufactured for other than beverage purposes, from the quantity of the preparation or substance sold or purchased by or in the possession of the person accused.

#### Proof of sale of liquor

**128.** (1) In proving the sale, disposal, gift, purchase or consumption of liquor, it is not necessary to show in a prosecution that any money actually passed or any liquor was actually consumed if the justice is satisfied that a transaction in the nature of a sale, disposal, gift or purchase actually took place.

#### Consumption

(2) Proof of consumption or intended consumption of liquor on premises on which consumption is prohibited is evidence that the liquor was sold or given to or purchased by the person consuming or being about to consume or carry away the liquor.

#### Proof of Board documents

**129.** In a prosecution under this Act or the regulations, the production of a copy of a Board order, licence or other document of the Board, certified as a true copy by a member of the Board, is admissible in evidence and, in the absence of evidence to the contrary, is proof of the statements contained in the document without proof of the signature or official character of the person appearing to have signed the document, and without further proof of the statements contained in the document.

#### Immunity

**130.** Notwithstanding any provision of this Act, where the person charged with an offence under this Act was acting as a peace officer whose duty it was to enforce this Act, or was acting under the instructions of the Royal Canadian Mounted Police, Criminal Investigation Branch, for the purpose of enforcing any provision of this Act and obtaining evidence on which any person might be brought to justice, the accused shall not be convicted.