



# LIQUOR LICENSING AND PUBLIC ENTERTAINMENTS BILL 2021

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## LIQUOR LICENSING AND PUBLIC ENTERTAINMENTS BILL 2021

**A BILL** to repeal and re-enact, with amendments, the Licensing Act 1995, make provision for the regulation and supply of liquor and for the regulation of public entertainments; and for connected purposes.

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

### PART 1 - INTRODUCTORY

#### 1 Short title

The short title of this Act is the Liquor Licensing and Public Entertainments Act 2021.

#### 2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on such day or days as the Department may by order appoint.  
Tynwald procedure — laying only.
- (2) Section 64 comes into operation on the day on which this Act is passed.
- (3) An order under subsection (1) may include such consequential, incidental, supplementary, savings, transitional and transitory provision as the Department of Home Affairs considers necessary or expedient.

#### 3 Interpretation

- (1) In this Act —

“**Appeal Court**” means the Licensing Court of Appeal;

“**Department**” means the Department of Home Affairs;

“**doorkeeper**”, in relation to licensed premises, means any person whose duties are, or a substantial part of whose duties is, the control of admission to, or the removal of persons from, the premises;

**“employee”**, in relation to any person, includes an apprentice and any other person who works for that person (whether or not under a contract of employment, and whether or not the person receives wages for his or her work);

**“guidance”** means guidance issued under section 60;

**“guard”**, in relation to licensed premises, means any person whose duties are, or a substantial part of whose duties is, the maintenance of order on the premises;

**“justice”** means a justice of the peace;

**“licence”** means a licence granted under this Act;

**“licensee”** means the holder of a licence granted under this Act;

**“licensed premises”** means premises in respect of which a licence is in force and includes premises in respect of which the licence has been suspended;

**“licensing authority”** means the licensing authority that may be established under section 11;

**“Licensing Forum”** means the organisation formed in 2005 whose membership comprises the list of persons published by the Department on its website [www.gov.iom](http://www.gov.iom);

**“licensing objectives”** means the following objectives —

- (a) securing public safety;
- (b) preventing crime and disorder;
- (c) preventing public nuisance;
- (d) protecting and improving public health;
- (e) protecting children from harm;
- (f) providing an environment in which the hospitality industry may flourish; and
- (g) promoting high standards across the hospitality industry;

**“liquor”** means spirits, wine, beer, cider and any other fermented, distilled or spirituous liquor, but does not include —

- (a) any liquor which is of a strength not exceeding 0.5 per cent. at the time of the sale or other conduct in question;
- (b) perfumes;
- (c) flavouring essences recognised by the Treasury as not being intended for consumption as or with dutiable alcoholic liquor; or
- (d) spirits, wine or made-wine so medicated as to be, in the opinion of the Treasury, intended for use as a medicine and not as a beverage;

**“police officer”** means a member of the Isle of Man Constabulary and includes a special constable appointed under section 5(2) of the *Police Act 1993*;

“**premises**” includes any place, building, stall or movable structure, conveyance, vessel or aircraft;

“**public entertainment**” and “**entertainment**” have the meaning given in section 4;

“**publish**” means publish on the website [www.gov.im](http://www.gov.im) and in such other way that brings the matter to the attention to any person who may be affected by it;

“**resident on licensed premises**” has the meaning given in section 6;

“**responsible person**” has the meaning given in section 24;

“**sale by retail**” has the meaning given in section 5;

- (2) A person is intoxicated if—
- (a) the person’s speech, balance, co-ordination or behaviour is noticeably affected; and
  - (b) it is reasonable in the circumstances to believe that the affected speech, balance, co-ordination or behaviour is the result of the consumption of liquor or some other substance.
- (3) Anything which by this Act is required or permitted to be done by or to the Chief Constable may be done by or to a police officer of the rank of inspector or above appointed in writing for the purpose by the Chief Constable.

#### 4 Meaning of “entertainment”

- (1) In this Act “public entertainment” means an entertainment to which the public are admitted, whether on payment or otherwise.
- (2) Subject to the following provisions of this section, in this Act, “entertainment” means —
- (a) any play;
  - (b) any music;
  - (c) any dancing;
  - (d) any film exhibition;
  - (e) any game, recreation, sport, exhibition, performance or amusement prescribed in regulation for the purpose of this subsection.
- (3) The following are not entertainments for the purposes of this Act —
- (a) a play performed in a place of public religious worship;
  - (b) music played or performed —
    - (i) for a purpose merely incidental to a use of a place other than the provision of an entertainment falling within subsection (2)(a), (c), (d) or (e);

- (ii) by the reproduction of programmes included in a programme service (within the meaning given in section 6 of the *Communications Act 2021*);
  - (iii) in a place of public religious worship; or
  - (iv) as an incident of a religious meeting or service; and
- (c) a film exhibition which complies with such conditions as are prescribed in regulations and —
  - (i) is not promoted for private gain; or
  - (ii) has as its sole or main purpose to demonstrate any product, to advertise any goods or services or to provide information, education or instruction.

## 5 Meaning of “sale by retail”

- (1) In this Act “sale by retail”, in relation to any liquor, means the sale of any such liquor, or the supply of any such liquor (otherwise than on sale) in the course of a business, at any one time to any one person, except where the sale is —
  - (a) to a trader for the purpose of his or her trade; or
  - (b) of not less than the following quantities —
    - (i) in the case of spirits or wine, 9 litres;
    - (ii) in the case of beer or cider, 20 litres,and made from premises owned or occupied by the seller.
- (2) The giving of liquor as a prize in a lottery is not to be treated for the purposes of this Act as a sale by retail of the liquor, where by virtue of section 30(3), 31(1), 32(3) or 34A of the *Gaming, Betting and Lotteries Act 1988* the lottery is not unlawful.
- (3) For the purposes of this Act, if the place where a contract for the sale of liquor is made is different from the place where the liquor is appropriated to the contract, the sale of liquor is to be treated as taking place where the liquor is appropriated to the contract.

## 6 Meaning of “resident on licensed premises”

- (1) A person is regarded as a resident on licensed premises at a particular time if, and only if—
  - (a) the person has spent the previous night at the licensed premises or is booked to spend the next night (or the present night) at the licensed premises; and
  - (b) the person’s name has been entered in the record of residents required to be kept by a licensee section 4 of the *Tourist Act 1975*.



- (2) None of the following persons is to be regarded as a resident on licensed premises —
- (a) the licensee or a member of his or her family;
  - (b) a responsible person for the licensed premises or a member of a responsible person's family;
  - (c) an employee of the licensee or a member of the employee's family.

## **PART 2 - LICENSING COURT AND LICENSING COURT OF APPEAL**

### **7 The Licensing Court**

- (1) There continues to be constituted a court called the Licensing Court.
- (2) The High Bailiff or Deputy High Bailiff shall hold a Licensing Court at such times and places as the High Bailiff may, in accordance with any directions of the First Deemster, appoint.
- (3) Licensing Courts consisting of 2 or more justices are to be held at such times and places as the Chief Registrar may, in accordance with any directions of the First Deemster, appoint.
- (4) The Licensing Court's function is to determine applications for licences or such other functions as are conferred on it under this Act or any other enactment.

### **8 The Licensing Court of Appeal**

- (1) There continues to be constituted a court called the Licensing Court of Appeal.
- (2) The Appeal Court consists of a High Court judge and 2 other members who must be appointed by the Clerk of the Rolls.

### **9 Courts: supplemental**

- (1) The Licensing Court and the Appeal Court are courts of justice and courts of record.
- (2) Subject to any provision in or under this Act, the Licensing Court and the Appeal Court may act on their own knowledge of the wants or requirements of a locality or neighbourhood, or of visitors to the Island.

### **10 Rules of court**

Rules of court may be made by the Deemsters to regulate the practice and procedures of the Licensing Court or the Appeal Court and to provide for any

other matter necessary or expedient for the effective and efficient operation of those courts.

## PART 3 - LICENSING AUTHORITY

### 11 Establishment of licensing authority

- (1) The Department may by regulations establish a licensing authority.
- (2) Regulations under subsection (1) must —
  - (a) specify the name and constitution of the licensing authority;
  - (b) specify the functions of the licensing authority; and
  - (c) require the licensing authority to carry out its functions in a way that is consistent with the licensing objectives.
- (3) Regulations under this section may transfer a function of the Licensing Court to the licensing authority.
- (4) Regulations under this section may provide for the authorisation of officers for the purpose of enforcing any provision of this Act, or regulations made under this Act, in exercise of the authority's powers and functions.

## PART 4 - LICENCES

### 12 Regulations: licences

The Department must make regulations under this Part before 1 November 2022, and may make subsequent regulations, to provide for the granting of licences by the Licensing Court, or the licensing authority —

- (a) for the brewing, distillation, storage, transportation, sale or supply of liquor; and
- (b) for public entertainments.

### 13 Regulations: types of licence

- (1) Regulations made by the Department may specify the types of licence that may be granted under this Part in respect of —
  - (a) the brewing, distillation, storage, transportation, sale or supply of liquor; or
  - (b) public entertainments.
- (2) Regulations may make provision for —
  - (a) the premises that are required to be licensed;
  - (b) the persons who are required to be licensed;

- (c) the public entertainments that are required to be licensed; or
  - (d) an activity or business connected to brewing, distillation, storage, transportation, sale or supply of liquor that is required to be licensed.
- (3) Regulations —
- (a) may provide that a licence may be granted to one or more persons;
  - (b) in the case where the applicant for the licence is a company —
    - (i) may require the company to provide information as to the individuals who are the beneficial owners of the company; and
    - (ii) may provide for the grant of the licence to the company or individuals within the company, or both; and
  - (c) may permit a licence to be granted in respect of one or more premises or one or more activities specified in the regulations.
- (4) Regulations —
- (a) must provide for the period of validity of a licence and for the renewal of a licence;
  - (b) may provide that a licence has provisional effect or be of fixed duration or indefinite duration;
  - (c) may provide for the temporary or permanent transfer of a licence to another person;
  - (d) may provide for the circumstances in which a person is disqualified for holding a licence; and
  - (e) may provide for the circumstances in which a person is exempt from the requirement to be licensed.
- (5) “Beneficial owner” has the meaning given in section 4 of the *Beneficial Ownership Act 2017*.

## 14 Regulations: application for licence

- (1) Regulations made by the Department must make provision about the procedure for making an application for a licence under this Part, including —
- (a) the form or content of an application;
  - (b) the information to be submitted with an application;
  - (c) the payment of fees to accompany the application;
  - (d) the evidence to be obtained as to the character and suitability of any applicant (including evidence of any previous convictions of that applicant);
  - (e) the persons who must be notified of an application;

- (f) the persons who may or must be consulted in respect of an application;
  - (g) the inspection or description of premises that are relevant to the application;
  - (h) the attendance of an applicant in person for questioning by the Licensing Court or licensing authority in relation to the application;
  - (i) the making of objections or representations to the Licensing Court or the licensing authority with respect to the application; and
  - (j) the withdrawal of an application.
- (2) The regulations may prescribe the matters that must or may be taken into consideration by the Licensing Court or licensing authority when it is determining whether or not to grant a licence.

## **15 Regulations: determination of application**

- (1) Regulations made by the Department must provide that the Licensing Court or licensing authority may refuse to grant a licence, or may grant a licence —
- (a) subject to such conditions as for the time being apply to that licence by virtue of regulations under this section;
  - (b) subject to such other conditions as the Licensing Court or licensing authority thinks fit; and
  - (c) subject to any undertaking given by the applicant and accepted by the Licensing Court or licensing authority.
- (2) Regulations may prescribe conditions to which a licence is subject, including conditions —
- (a) prohibiting or restricting the brewing, distillation, storage or transportation of liquor, or the sale or supply of liquor to or for persons of any specified description;
  - (b) prohibiting or restricting the presence on the premises, or in any specified room in the premises, of persons below a specified age (not being an age that is more than 18 years);
  - (c) prohibiting or restricting the entry of persons of any specified description from entering a place that is licensed for public entertainment;
  - (d) prohibiting or restricting the presence of persons below a specified age on licensed premises of a specified description;
  - (e) prohibiting the sale, supply or consumption on the premises of any class or description of liquor specified in the condition;
  - (f) prohibiting or restricting the sale or supply of liquor to or for persons of any specified description;

- (g) prohibiting the sale or supply of liquor for consumption off the premises;
  - (h) permitting public entertainments to take place on prescribed days or during prescribed hours; and
  - (i) such other conditions as the Department considers necessary or expedient to make.
- (3) Regulations may provide that the Licensing Court or licensing authority that issues a licence subject to conditions or an undertaking, of its own motion or on an application by any person, may do all or any of the following —
  - (a) vary or remove any condition imposed by it;
  - (b) waive, wholly or in part, any undertaking previously given and accepted; or
  - (c) impose a further condition or accept a further undertaking by the licensee.
- (4) Regulations may not prohibit or restrict the presence in any specified room in the premises a person below a specified age who is —
  - (a) a child of the licensee;
  - (b) a person who resides in the licensed premises but is not employed there; or
  - (c) a person who is in the room solely for the purpose of passing to or from some other part of the premises to or from which there is no other convenient means of access or egress.
- (5) Regulations must specify the information to be contained in a licence including —
  - (a) any conditions to which the licence is subject; and
  - (b) any undertaking given by the licensee and accepted by the Licensing Court or licensing authority.
- (6) If any condition to which a licence is subject is not complied with —
  - (a) the licensee is guilty of an offence; and
  - (b) whether or not the person is convicted of that offence, the Licensing Court or licensing authority may by order revoke the licence or suspend it for such period, or until the happening of such event, as is specified in the order.

Maximum penalty (summary conviction) - a fine of level 4 on the standard scale.

## **16 Regulations: suspension, revocation or surrender of licences**

Regulations made by the Department must specify —

- (a) the circumstances when a licence may be suspended, revoked or surrendered;
- (b) the period for which a licence may be suspended;
- (c) the procedure for suspending the licence and the matters that must or may be satisfied before the suspension may be lifted;
- (d) the procedure for revoking or surrendering a licence;
- (e) the effect of a suspension, revocation or surrender of a licence and the time at which the suspension, revocation or surrender takes effect; and
- (f) any transitional arrangement following a suspension, surrender or revocation.

## 17 Regulations: renewal of licences

Regulations made by the Department must —

- (a) provide for the renewal of licences, and the process for applying for their renewal; and
- (b) specify circumstances when a licence may continue in force during the process of applying for its renewal.

## 18 Licence Register

- (1) The Department must keep a register, in electronic form and any other form as it considers appropriate, containing a record of the following matters —
  - (a) each licence application received by the Licensing Court or licensing authority including —
    - (i) the name and business address of the applicant; and
    - (ii) the premises in respect of which the application is made;
  - (b) each determination by the Licensing Court or licensing authority (and Appeal Court, as the case may be) in respect of each application, variation or revocation of a licence;
  - (c) a record of each licence issued by the Licensing Court or licensing authority, including any conditions of the licence;
  - (d) the name of the person to whom a licence was issued;
  - (e) any responsible person for the premises (if known); and
  - (f) such other information as the Department reasonably considers to be necessary.
- (2) The clerk of the Licensing Court must provide the Chief Registrar with the particulars specified in subsection (1) or in the regulations (if any) under subsection (4) which are required to be entered on the register and which are under the clerk's control, for the purpose of —

- (a) the keeping of the register; and
  - (b) the publishing of the information recorded on the register under subsection (5).
- (3) A person in respect of whom, or in respect of whose premises has been granted a licence may, on request to the Department, be given access to all information on the register that concerns that person.
- (4) The Department may make regulations specifying —
  - (a) any other information on the register which may be accessed and by which persons;
  - (b) the terms on which information will be provided;
  - (c) the form in which requests for access to information on the register may be made;
  - (d) the means by which the register may be searched;
  - (e) any exceptions to the provision of information and the circumstances in which a request for access to information on the register may be refused;
  - (f) any procedures for appealing against a refusal of a request for access to information on the register;
  - (g) any fees payable for the provision of access to the register; and
  - (h) the form of any provision of information following a request.
- (5) The Department must publish the entries in the register as to the names of each licensee and the premises that are licensed and make those entries available for public inspection (in any legible form) by any person without payment.
- (6) The Department may by order amend subsection (1).

## **19 Employment of staff on licensed premises**

- (1) The Department must by regulations make provision for the establishment and maintenance, by such person or authority as is specified in the regulations, of a register of persons who may be employed with respect to any licensed premises as a guard, doorkeeper or responsible person (“Licensed Staff Register”).
- (2) The regulations may include (but are not limited to) provisions in respect of —
  - (a) the conditions for registration;
  - (b) applications for registration;
  - (c) the duration of registration;
  - (d) removal from the register;
  - (e) appeals against decisions relating to applications for registration and removal from the Licensed Staff Register;

- (f) fees for applications for, and continuance of, registration;
  - (g) the admissibility of statements as to entries on the Licensed Staff Register; and
  - (h) the publication of such details on the register as may be specified in the regulations.
- (3) Where any person who is not entered in the Licensed Staff Register is employed by a licensee as a guard or doorkeeper on or with respect to any licensed premises —
- (a) the licensee is guilty of an offence; and
  - (b) the person employed as the guard, doorkeeper or responsible person, as the case may be, is guilty of an offence.

Maximum penalty (summary conviction) - a fine of level 5 on the standard scale.

- (4) In proceedings for an offence under subsection (2) it is a defence for the licensee, guard, doorkeeper or responsible person to show that the person —
- (a) reasonably believed that the person was entered in the Licensed Staff Register; and
  - (b) had taken all reasonable steps to ascertain that the person was so entered.
- (5) A person is guilty of an offence if the person —
- (a) makes a statement which is false in a material particular, or recklessly makes a statement which the person knows to be false in a material particular, or withholds any material information, for the purpose of securing the making or retention of any entry on, or the removal of any entry from, the Licensed Staff Register; or
  - (b) falsely represents himself to be entered in the Licensed Staff Register.

Maximum penalty (summary conviction) - a fine of level 5 on the standard scale.

## 20 Notification requirements

- (1) Regulations made by the Department may provide that specified activities for which a licence is not required under this Act must be notified to the Department before the activity takes place.
- (2) The regulations must specify —
  - (a) the information that must be notified; and
  - (b) the time and manner in which it must be notified.
- (3) The regulations may provide that a person who fails to comply with a requirement to notify the Department is guilty of an offence; and provide



that the maximum penalty on summary conviction is a fine of level 1 on the standard scale.

## PART 5 – DESIGNATED AREAS

### 21 Designated areas

- (1) The Department may by order designate an area as a restricted licensing area if it is satisfied that it is necessary to so designate for the purpose of one or more of the licensing objectives.

Tynwald procedure – affirmative.

- (2) Before making an order under subsection (1) the Department must consult –
  - (a) the Chief Constable;
  - (b) the fire and rescue service; and
  - (c) such other persons as the Department considers to be representative of businesses and residents and of holders of licences in the proposed designated area.
- (3) For the purposes of the consultation, the Department must provide to the persons mentioned in subsection (2) the reasons why it is considering making a designation order, together with evidence that the order is necessary for one of the purposes in the licensing objectives.
- (4) The Department must –
  - (a) review each designation order at intervals of not more than 3 years; and
  - (b) revoke a designation order if it is satisfied that the designation is no longer necessary for the purpose of one of the licensing objectives.

## PART 6 – CONDUCT OF LICENSED PREMISES

### 22 Notification of opening hours

- (1) The Department may by regulations require the holder of any licence to give notice in writing to the Chief Constable of the hours between which the person intends to –
  - (a) sell or supply liquor for consumption on the licensed premises; or
  - (b) undertake such other activity for which a licence is required as may be specified in the regulations.
- (2) Regulations under this section may provide for non-compliance with a provision of the regulations made under subsection (1) to be an offence

punishable on summary conviction by a fine not exceeding a fine of level 2 on the standard scale.

## **23 Minors on licensed premises**

- (1) The Department must by regulations make provision to —
  - (a) control the consumption of liquor by a minor in any place;
  - (b) permit the seizure of liquor in possession of a minor and provide for its disposal;
  - (c) control the purchasing of liquor for consumption by a minor;
  - (d) control the employment of minors in licensed premises;
  - (e) control the sale of liquor to a minor;
  - (f) control the purchase of liquor by or on behalf of a minor; and
  - (g) require proof of the age of a person intending to acquire liquor.
- (2) The Department may by regulations —
  - (a) specify any document or class of documents which may be produced for the purpose of proving the age of a person; or
  - (b) prescribe the form, and the procedure for the issue by the Department or any other authority or person specified in the regulations, of documents which may be produced for that purpose.
- (3) Regulations under this section may provide for non-compliance with any provision of the regulations to be an offence —
  - (a) punishable on summary conviction of a person aged 18 years or over, by a fine not exceeding level 2 on the standard scale; and
  - (b) punishable on summary conviction of minor, by a fine not exceeding a fine of level 1 on the standard scale.

## **24 Responsible person to be on licensed premises at all times**

- (1) Except as otherwise provided for in regulations, a licensee of any licensed premises must ensure that there is a responsible person on the licensed premises at all times when the premises are open to the public.
- (2) A responsible person is —
  - (a) the licensee for the premises; or
  - (b) a person designated by the licensee as having personal responsibility for the premises in the absence of the licensee.
- (3) The licensee must not designate a person under subsection (2)(b) unless the person is the holder of such qualifications as may be specified by the Department in regulations or otherwise approved by the Department to act as a responsible person of those premises.

- (4) The Department, by regulations —
- (a) must specify the qualifications for a person to act as a responsible person in respect of premises;
  - (b) may specify different qualifications for different types of premises; and
  - (c) may provide for circumstances when a licensee is exempt from the requirement in subsection (1).
- (5) A licensee who without reasonable excuse fails to comply with subsection (1) is guilty of an offence.
- Maximum penalty (summary conviction) - a fine of level 3 on the standard scale.
- (6) A person who purports to take responsibility for licensed premises when the person is not a responsible person is guilty of an offence.
- Maximum penalty (summary conviction) - a fine of level 3 on the standard scale.
- (7) Whether or not the licensee is convicted of an offence under subsection (5), the Licensing Court or licensing authority may by order suspend the licence for such period, or until the happening of such event, as may be specified in the order if it is satisfied that the premises is operating or has opened without a responsible person being present.
- (8) Where the Licensing Court or licensing authority has power under subsection (7) to suspend a licence, and has already suspended the licence under any provision of this Act at least twice in the previous 5 years, it may by order revoke the licence.
- (9) Before suspending or revoking a licence under this section the Licensing Court or licensing authority must, unless it determines that it is not practicable to do so, in accordance with any requirement in the regulations, give the licensee an opportunity to make representations as to why the licence should not be suspended or revoked, as the case may be.

## 25 Supply of excess quantity

A licensee, or an employee or agent of a licensee who —

- (a) sells or supplies to any person in the licensed premises; or
- (b) permits any other person to sell or supply to any person in the licensed premises,

as the measure of liquor for which that person asks an amount exceeding that amount, is guilty of an offence.

Maximum penalty (summary conviction) - a fine of level 2 on the standard scale.

**26 Price controls**

- (1) The Department may by regulations —
  - (a) make provision that enables the minimum price at which liquor may or must be sold to be specified, whether by reference to the price per unit, the strength of alcohol, the volume of alcohol or otherwise;
  - (b) regulate or prohibit the supply of liquor with other products or services for a single price; or
  - (c) regulate the labelling of liquor in relation to its price.
- (2) Regulations under this section may provide for non-compliance with a provision of the regulations made under subsection (1) to be an offence punishable on summary conviction by a fine not exceeding a fine of level 3 on the standard scale.

**27 Sale on credit**

- (1) A licensee, or an employee or agent of a licensee, in the licensed premises who —
  - (a) sells or supplies liquor to be consumed on the premise; or
  - (b) permits any person to consume liquor,which is not paid for before or at the time it is sold or supplied, is guilty of an offence.  
Maximum penalty (summary conviction) - a fine of level 2 on the standard scale.
- (2) A person in licensed premises who consumes liquor which is not paid for before or at the time it is sold or supplied, is guilty of an offence.  
Maximum penalty (summary conviction) - a fine of level 2 on the standard scale.
- (3) Subsections (1) and (2) are not contravened if the liquor —
  - (a) is sold or supplied for consumption at a meal supplied at the same time, is consumed with the meal, and is paid for together with the meal;
  - (b) is sold or supplied to a person who resides on the premises; or
  - (c) is paid for, at the time it is sold or supplied, by means of a credit card, charge card or similar payment card.
- (4) No debt or demand arising from the sale of liquor in contravention of subsection (1) or (2) is recoverable.

**28 Alterations to licensed premises**

- (1) A person must not make an alteration to such licensed premises as may be specified in regulations made by the Department, without the permission of the Licensing Court or licensing authority, if the alteration —
  - (a) gives increased facilities for drinking;
  - (b) conceals from observation any part of the premises used for drinking; or
  - (c) affects the communication between the part of the premises where liquor is sold and any other part of the premises or any street or other place to which the public has access.
- (2) Subsection (1) is not contravened by works required by an order of a court or an order made or notice served by a public authority pursuant to an enactment.
- (3) Any person who contravenes subsection (1) is guilty of an offence.  
Maximum penalty (summary conviction) - a fine of level 2 on the standard scale.
- (4) If the Licensing Court or licensing authority is satisfied that subsection (1) is contravened in relation to any licensed premises the Licensing Court or licensing authority may by order —
  - (a) revoke the licence;
  - (b) direct the licensee that within a time fixed by the Licensing Court or licensing authority the premises must be restored to their original condition; or
  - (c) give a direction under paragraph (b) and suspend the licence until the direction has been complied with.
- (5) Where a licence is suspended under subsection (4)(c), it is of no effect until the Licensing Court or licensing authority certifies either that the direction has been complied with or that such alternative works as the Licensing Court or licensing authority may permit have been completed.
- (6) If a direction under subsection (4)(b) or (c) is not complied with, the Licensing Court or licensing authority may by order revoke the licence.

**29 Display of notices at licensed premises**

- (1) The Department may by regulations make provision for the display of notices at licensed premises to indicate any of the following —
  - (a) the name of the licensee and any responsible person for the licensed premises;
  - (b) the nature of the licence;
  - (c) any opening hours notified pursuant to regulations under section 22(1);

- (d) the normal opening hours during which liquor is sold or supplied;
  - (e) the charges made for liquor of different kinds, according to the measures by which they are sold; and
  - (f) particulars of any conditions included in the licence.
- (2) Regulations under this section may provide that, if the requirements of the regulations are not complied with in relation to any licensed premises, the licensee is guilty of an offence punishable on summary conviction by a fine not exceeding level 1 on the standard scale.
- (3) If a notice is displayed on any premises falsely stating or implying that a licence, or a licence of a particular kind, is in force in respect of the premises —
- (a) the occupier of the premises; and
  - (b) the person by whom the notice is displayed,
- are guilty of an offence.

Maximum penalty (summary conviction) - a fine of level 3 on the standard scale.

### **30 Misbehaviour of persons: preventing entry into licensed premises or sale of liquor to certain persons**

- (1) Any person who on any licensed premises —
- (a) is guilty of disorderly behaviour; or
  - (b) behaves indecently to the annoyance of any person,
- is guilty of an offence.
- Maximum penalty (summary conviction) - custody for a term not exceeding 6 months and a fine of level 5 on the standard scale.
- (2) A person who appears to be guilty of an offence under subsection (1) may be arrested without warrant by any person.
- (3) On the conviction of a person of an offence to which this subsection applies the court by which the person is convicted may make either or both of the following orders —
- (a) an order that the person must not purchase liquor from the holder of any licence for such period (not exceeding 5 years) from the date of the order as may be specified in the order;
  - (b) an order that the person must not enter any licensed premises (other than premises on which the person resides) for such period (not exceeding 5 years) from the date of the order as may be specified in the order.
- (4) Where the court makes an order under subsection (3)(a) against any person, it may also order that a licensee must not supply liquor to him during the period specified under subsection (3)(a).

- (5) Where the court makes an order under subsection (3)(a) or (b) against any person, it may also issue a warrant —
- (a) authorising any person directed to do so by the Chief Constable to take a photograph of the person and to distribute copies of the photograph to the holders of licences, and
  - (b) authorising any police officer to arrest and detain the person for that purpose.
- (6) Subsection (3) applies to —
- (a) any offence committed by the person while the person was on licensed premises and intoxicated at the time of the offence;
  - (b) an offence under any of sections 18 to 60D of the *Criminal Code 1872* (homicide, assault etc.);
  - (c) an offence under section 56 of the *Petty Sessions and Summary Jurisdiction Act 1927* (assault, provoking behaviour etc.) committed on any licensed premises;
  - (d) an offence under section 1 of the *Criminal Damage Act 1981* (criminal damage);
  - (e) an offence under Part I of the *Public Order Act 1998* committed on any licensed premises;
  - (f) any other offence in which the consumption of liquor or other intoxicating substance was a significant factor leading to the offence, a constituent part of the behaviour constituting the offence or an aggravating feature of the offence, whether or not the offence was committed on licensed premises; and
  - (g) such other offences as the Department may by order prescribe.
- (7) If a person against whom an order under subsection (3)(a) or (b) is in force contravenes the order, the person is guilty of an offence.
- Maximum penalty (summary conviction) - a fine of level 3 on the standard scale.
- (8) If a licensee knowingly contravenes an order under subsection (4), the person is guilty of an offence.
- Maximum penalty (summary conviction) - a fine of level 3 on the standard scale.
- (9) If a licensee —
- (a) gets intoxicated; or
  - (b) sells liquor to an intoxicated person; or
  - (c) permits intoxication or any violent, quarrelsome or disorderly behaviour,
- on the licensed premises, the person is guilty of an offence.

Maximum penalty (summary conviction) - a fine of level 3 on the standard scale.

- (10) If, in proceedings for an offence under subsection (9) of permitting intoxication on licensed premises, it is proved that a person was intoxicated on the premises, the licensee shall be convicted unless the licensee shows that the licensee and the persons employed by the licensee took all reasonable steps for preventing intoxication on the premises.
- (11) The Department may by regulations provide that, in the case of a person who is subject to an order under subsection (3)(b), despite the order, the person may enter such part of an airport, sea port, bus station or other travel hub as may be specified in the regulations for the purpose of enabling the person to undertake a journey.

### 31 Procuring drink for intoxicated persons on licensed premises

- (1) If any person (P) in licensed premises procures liquor for consumption by an intoxicated person in or in close proximity to licensed premises, P is guilty of an offence.

Maximum penalty (summary conviction) - a fine of level 2 on the standard scale.

- (2) If any person aids an intoxicated person in obtaining or consuming liquor in licensed premises, the person is guilty of an offence.

Maximum penalty (summary conviction) - a fine of level 2 on the standard scale.

### 32 Assault on staff of licensed premises

- (1) Subsection (2) applies to —
  - (a) any offence committed by a person while the person was on licensed premises and intoxicated at the time of the offence;
  - (b) an offence under any of sections 18 to 60D of the Criminal Code 1872 (homicide, assault etc.);
  - (c) an offence under section 56 of the *Petty Sessions and Summary Jurisdiction Act 1927* (assault, provoking behaviour etc.) committed on any licensed premises;
  - (d) an offence under section 1 of the *Criminal Damage Act 1981* (criminal damage);
  - (e) an offence under Part I of the *Public Order Act 1998* committed on any licensed premises;
  - (f) any other offence in which the consumption of liquor or other intoxicating substance was a significant factor leading to the offence, a constituent part of the behaviour constituting the offence or an aggravating feature of the offence; and



- (g) such other offences as the Department may by order prescribe.  
Tynwald procedure – affirmative.
- (2) An offence —
  - (a) to which this section applies; and
  - (b) which was against a licensee, a responsible person, a guard or doorkeeper, or any other member of the staff of the licensed premises in the course of their employment in the premises,is an aggravated offence.
- (3) If an offence is an aggravated offence under subsection (2), the sentencing court must decide on the level of sentence as if the person against whom it was committed is a police officer or other person serving in a public facing role.

### 33 Expulsion of persons from licensed premises

- (1) The licensee or other responsible person, and any employee or agent of the responsible person, may, without giving any reason —
  - (a) refuse to admit any member of the public to licensed premises; or
  - (b) refuse to supply liquor to any person,if the responsible person considers it inadvisable to do so.
- (2) The licensee or other responsible person, and any employee or agent of the responsible person, may, without giving any reason, order any person to leave licensed premises.
- (3) The powers conferred by subsections (1) and (2) must not be exercised in a manner which contravenes the restrictions on discrimination contained in the *Equality Act 2017*.
- (4) A person is guilty of an offence if the person fails or refuses to leave licensed premises on being ordered to do so by —
  - (a) the responsible person;
  - (b) any employee or agent of the responsible person; or
  - (c) a police officer.Maximum penalty (summary conviction) - a fine of level 2 on the standard scale.
- (5) Without prejudice to any other right to exclude or expel a person from licensed premises, the responsible person, and any employee or agent of the responsible person, may refuse to admit to, or expel from, the licensed premises any person —
  - (a) who is intoxicated, violent, quarrelsome or disorderly; or
  - (b) whose presence on the licensed premises would subject the licensee to a penalty under this Act.

- (6) Any police officer must, on the demand of the responsible person or any employee or agent of the responsible person, help to expel from the licensed premises —
  - (a) any person failing or refusing to leave the licensed premises when ordered to do so under subsection (3); or
  - (b) any person liable to be expelled from the licensed premises under subsection (4).
- (7) Any person exercising any powers under subsection (2), (4) or (5) may use such force as may be required for the purpose.

### 34 Prostitution etc on licensed premises

- (1) A licensee who permits the licensed premises to be the habitual resort or place of meeting of reputed prostitutes, whether or not the object of their so resorting or meeting is prostitution, is guilty of an offence.  
  
Maximum penalty (summary conviction) - a fine of level 3 on the standard scale.
- (2) Subsection (1) is not contravened by a licensee allowing any such person to remain in the licensed premises for the purpose of obtaining reasonable refreshment for such time as is necessary for the purpose.
- (3) If a licensee is convicted of any offence under sections 59 to 65 of the *Sexual Offences and Obscene Publications Act 2021* (suppression of brothels), the court on an application by the Chief Constable must by order revoke the licence.

### 35 Gaming on licensed premises

- (1) A licensee who permits any gaming or unlawful game to be carried on in the licensed premises is guilty of an offence.  
  
Maximum penalty (summary conviction) - a fine of level 3 on the standard scale.
- (2) Subsection (1) is not contravened by —
  - (a) a private lottery and confined to the persons mentioned in section 30(1)(d) of the *Gaming, Betting and Lotteries Act 1988*;
  - (b) a lottery which by virtue of section 31(1) or 35 of that Act is not unlawful;
  - (c) a society lottery (within the meaning of that Act) which by virtue of section 32 or 34A of that Act is not unlawful;
  - (d) a lottery which by virtue of section 1 of the *National Lottery Act 1999* is not unlawful;
  - (e) the playing of a controlled machine (within the meaning of the *Gaming (Amendment) Act 1984*);

- (f) the playing of prescribed games pursuant to a temporary premises certificate issued under Part IIA of the *Casino Act 1986*; or
  - (g) the playing of dominoes or cribbage on licensed premises, if the stake or the aggregate of stakes put up by each player does not exceed £1 in respect of each game.
- (3) The conviction of a licensee of an offence under —
  - (a) section 5, 11 or 29 of the *Gaming, Betting and Lotteries Act 1988*; or
  - (b) section 2(4) of the *Gaming (Amendment) Act 1984*,relating to the licensed premises must be treated for the purposes of this Act as a conviction of an offence under this Act.
- (4) The Department may by order amend subsection (2)(g) to —
  - (a) amend the games that may be played on licensed premises; and
  - (b) substitute another amount for the amount specified in subsection (2)(g) (or the amount substituted therefor by a previous order under this subsection).Tynwald procedure – affirmative.

### 36 Misuse of drugs on licensed premises

- (1) If a licensee is convicted of an offence under section 8 of the *Misuse of Drugs Act 1976* (occupier permitting certain activities on premises) in relation to the licensed premises, the court by which the person is convicted may by order revoke the licence.
- (2) Before a court revokes a licence under this section, it must, unless it determines that it is not practicable to do so, give the licensee an opportunity to make representations as to why the licence should not be revoked.
- (3) Where an order has been made under subsection (2) revoking a licence, the court may order that a licence must not be granted in respect of the premises for such period (not exceeding 2 years) as the court may direct.
- (4) The conviction of a person of an offence under any of the following provisions of the *Misuse of Drugs Act 1976* —
  - (a) section 4(3) (supply of controlled drug);
  - (b) section 5(2) or (3) (possession of controlled drug); or
  - (c) section 8 (occupier permitting certain activities on premises),committed on or in relation to licensed premises is to be treated for the purposes of this Act as an offence under this Act.

**37 Keeping unauthorised liquor**

- (1) A licensee is guilty of an offence if the licensee, without reasonable excuse, has in his or her possession on licensed premises any kind of liquor which the licensee is not authorised to sell on those premises.

Maximum penalty (summary conviction) - a fine of level 2 on the standard scale.

- (2) The court by which a person is convicted of an offence under subsection (1) may order that the liquor be forfeited.

**38 Consumption on or near licensed premises**

- (1) A licensee is guilty of an offence if a person —
- (a) buys liquor from a licensee which does not authorise the sale of that liquor for consumption on the premises; and
  - (b) with the privity or consent of the holder, drinks the liquor —
    - (i) on the licensed premises; or
    - (ii) in premises adjoining the licensed premises and belonging to the holder or under his or her control or used by his or her permission; or
    - (iii) in a street adjoining or near to the licensed premises.

Maximum penalty (summary conviction) - a fine of level 3 on the standard scale.

- (2) A licensee is guilty of an offence if the licensee, with intent to evade the terms of the licence, takes, or permits any other person to take, any liquor from the licensed premises for the purpose of its being sold on the account of the licensee or for his or her benefit or profit.

Maximum penalty (summary conviction) - a fine of level 3 on the standard scale.

- (3) If in proceedings for an offence under subsection (2), it is proved that liquor was taken for the purpose of its being consumed in any building or structure belonging to the licensee or under the licensee's control or used by the licensee's permission, the licensee shall be convicted unless licensee shows that the licensee did not intend to evade the terms of the licence.

**PART 7 – APPEALS****39 Appeals**

- (1) Unless this Act expressly provides otherwise, the following persons may appeal to the Appeal Court against the decision of the Licensing Court or licensing authority on an application for a licence, order or permission under this Act (except an order mentioned in subsection (4)) —

- (a) the applicant; and
  - (b) any person who made any representation to the Licensing Court or licensing authority in respect of a licensing application.
- (2) On determining such an appeal the Appeal Court may —
  - (a) confirm the decision of the Licensing Court or licensing authority, with or without modifications;
  - (b) reverse the decision of the Licensing Court or licensing authority; or
  - (c) remit the application to the Licensing Court or licensing authority for re-consideration.
- (3) Where the Appeal Court determines an appeal, it may make any order, impose any conditions, or accept any undertaking, which the Licensing Court or licensing authority might make, impose or accept, and anything done by or in relation to the Appeal Court on granting an application has effect, and is to be treated for the purposes of enforcement, variation or revocation, as if it had been done by or in relation to the Licensing Court or licensing authority.
- (4) The following persons may appeal to the Appeal Court against the following decisions of the Licensing Court or licensing authority —
  - (a) an order revoking or suspending a licence, the licensee or the owner of the licensed premises;
  - (b) in the case of an order disqualifying a person for holding or obtaining a licence, that person;
  - (c) in the case of the refusal of an order mentioned in paragraph (a) or (b), the Chief Constable or any person who applied for the order.
- (5) On determining such an appeal the Appeal Court may —
  - (a) quash or make the order in question, as the case may be;
  - (b) remit the matter to the Licensing Court or licensing authority for re-consideration; or
  - (c) dismiss the appeal.
- (6) On determining an appeal the Appeal Court may make such order as to costs, and grant execution thereon, as it thinks fit.
- (7) Subject to subsection (8), the decision of the Appeal Court on such an appeal is final.
- (8) Section 109 (appeal by way of case stated) of the *Summary Jurisdiction Act 1989* applies to a decision of the Appeal Court as it applies to a decision of a court of summary jurisdiction.
- (9) The Department may by regulations amend this section to make further provision for appeals including —
  - (a) the grounds of appeal and process for appealing;

- (b) the persons who may appeal;
- (c) the contents and form of applications for appeals, and the way (or manner) in which they must be made;
- (d) the persons who must be notified of the appeal and be permitted to make representations;
- (e) the time limits within which to appeal;
- (f) the orders that may be made by the Appeal Court in respect of an appeal; and
- (g) the effect the appeal has on the decision appealed against while the appeal is being considered.

## PART 8 – OTHER OFFENCES

### 40 Selling liquor without licence

- (1) Subject to subsection (5), a person must not sell by retail any liquor unless the person has been granted a licence to sell that liquor.
- (2) A person, being a licensee, must not sell by retail any liquor except at the place for which the licence authorises the person to sell that liquor.
- (3) A person must not permit the sale of liquor by a person in contravention of subsection (1) or (2).
- (4) A person may sell liquor without being a licensee where —
  - (a) the sale is authorised under regulations made under this Act;
  - (b) the sale is by a registered medical practitioner (within the meaning of section 4 of the *Health Care Professionals Act 2014*) or by a pharmacist of alcohol made up in medicine;
  - (c) the sale is of liquor by wholesale;
  - (d) the sale is by auction of liquor by —
    - (i) the personal representatives of a deceased person, or the trustee in bankruptcy of a person or trustee under a deed of arrangement of a person, for the purpose of getting in and realising the estate of such a person;
    - (ii) a coroner in the execution of any process or order of a court; or
    - (iii) any householder of his private stock of liquor when *bona fide* removing from his residence or breaking up his establishment.
- (5) A person who contravenes subsection (1), (2) or (3) is guilty of an offence.  
Maximum penalty – (Summary conviction) – 6 months' custody and a fine not exceeding level 5 on the standard scale.

- (6) On the conviction of a person for an offence under subsection (1), (2) or (3), the court by which the person is convicted may order that all liquor found in the person's possession be forfeited.
- (7) On the second or subsequent conviction of a person for an offence under subsection (1), the Court by which the person is convicted —
  - (a) if the person is a licensee, must revoke the licence; and
  - (b) in any case may order the person to be disqualified for holding a licence —
    - (i) on a second conviction, for a period not exceeding 5 years;
    - (ii) on a third or subsequent conviction, for any period, or for life.
- (8) In this section “pharmacist” has the same meaning as in the *Medicines Act 2003*.

#### 41 Public drunkenness

- (1) If any person in a public place —
  - (a) while drunk acts in an indecent or disorderly manner;
  - (b) is drunk and incapable of taking care of himself or herself;
  - (c) is drunk while in charge of any horse or cattle or any carriage or cart (not being a motor vehicle or a pedal cycle); or
  - (d) is drunk while in charge of a child under the age of 10 years,the person is guilty of an offence.  
Maximum penalty (summary) a fine of level 3 on the standard scale.
- (2) A person who appears to be guilty of an offence under subsection (1) may be arrested without warrant by any person.
- (3) Where a person —
  - (a) is charged with an offence under subsection (1)(a) or (b); and
  - (b) has been convicted of any such offence more than once in the previous 5 years,the court before which the person is charged may exercise the powers conferred by section 23 of the *Summary Jurisdiction Act 1989* (remand for medical reports), although the offence is not punishable with custody.
- (4) In this section —
  - “motor vehicle” has the same meaning as in the *Road Traffic Act 1985*;
  - “public place” includes any highway and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise.

## 42 Drinking in public places

- (1) A person who consumes liquor in a public place after being warned by a police officer not to do so is guilty of an offence.

Maximum penalty (summary) a fine of level 2 on the standard scale.

- (2) A police officer may not give a warning under subsection (1) unless it appears to the officer that the person concerned —

- (a) is acting in an indecent or disorderly manner;
- (b) is using indecent or obscene language;
- (c) is acting in a manner that has resulted, or is likely to result, in any member of the public being intimidated, harassed, alarmed or distressed;
- (d) is acting in a manner that has resulted, or is likely to result, in any member of the public being disturbed in his or her peaceful enjoyment of the public place; or
- (e) is acting in a manner that has caused, or is likely to cause, nuisance or annoyance to any member of the public.

- (3) A person (P) is guilty of an offence if P knowingly —

- (a) acts as an agent for a person against whom an order under section 30(3)(a) is in force in buying any liquor for consumption in a highway or other public place;
- (b) acts as an agent for such a person procuring the supply to that person of any liquor for consumption in a highway or other public place; or
- (c) supplies liquor to such a person for consumption in a highway or other public place.

- (4) A person against whom an order under section 33(3)(a) is in force and who consumes liquor in a public place is guilty of an offence.

Maximum penalty (summary) a fine of level 2 on the standard scale.

- (5) A person who —

- (a) is carrying in a public place an open bottle, flask, can, glass, cup or other vessel which contains or has contained liquor; and
- (b) refuses to comply with a request by a police officer immediately to deposit the vessel in a receptacle for the deposit of litter or to deliver it to the officer,

is guilty of an offence.

Maximum penalty (summary) a fine of level 2 on the standard scale.

- (6) Where an offence under subsection (5) is committed, a police officer may seize the vessel and may dispose of it as the officer thinks fit.

- (7) Nothing in subsections (5) and (6) applies to —



- (a) a flask designed to hold no more than 0.2 litres of spirits and to be carried on the person; or
  - (b) a chalice or other vessel used in the course of a religious service.
- (8) A police officer may require a person who appears to be committing or to have committed an offence under subsection (1), (3), (4) or (6) to leave the public place in question immediately, and, if the person fails to do so, the officer may arrest the person without warrant.
- (9) In this section, “public place” means —
  - (a) any highway; and
  - (b) any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of any express or implied permission.
- (10) The Department may by a direction in writing provide that subsection (1) does not apply to a public place specified in the direction on such day, and for such period (not exceeding 12 hours), as may be so specified.

#### **43 Liqueur confectionery**

- (1) Any person who knowingly sells liquor in confectionery to any person under 16 is guilty of an offence.  
Maximum penalty (summary) a fine of level 2 on the standard scale.
- (2) References in this Act (except in this section) to liquor do not include references to liquor in confectionery which —
  - (a) does not contain liquor in a proportion of 0.2 litres of liquor (containing a quantity of ethyl alcohol amounting to 57 per cent. of the volume of the liquor inclusive of the alcohol contained in it as at 20°C.) per kilogram of confectionery; and
  - (b) either consists of separate pieces weighing not more than 42.5 grams or is designed to be broken into such pieces for consumption.

#### **44 Regulations: powder liquor or liquor vapour**

- (1) The Department may by regulations prohibit the sale or use of liquor that is in powder form or vapour form.
- (2) The regulations may provide that a person who acts on contravention of a provision of the regulations under subsection (1) is guilty of an offence and provide that the maximum penalty on summary conviction is a fine of level 1 on the standard scale.

## PART 9 - ENFORCEMENT

### 45 Offences: general

- (1) Where 2 or more persons (whether or not partners) are a licensee, each of them is liable in respect of an offence against this Act as if the person alone had been the licensee, and proceedings for such an offence may be brought against any one or more of those persons.
- (2) Where a licensee is charged with an offence under this Act in respect of an act or omission by an employee or agent of the licensee it is a defence for the licensee to show —
  - (a) that the offence was committed without the licensee's knowledge or consent; and
  - (b) that the person took all reasonable precautions and used all due diligence to prevent the commission of the offence.
- (3) For the purpose of any provision of this Act imposing a penalty, disqualification or revocation for a second or subsequent offence, any conviction more than 5 years previously is disregarded.
- (4) Anything declared by a court under this Act to be forfeited must be sold or otherwise disposed of as that court may direct, and the proceeds must be applied as a fine imposed by a criminal court.
- (5) Where a court under this Act declares any liquor to be forfeited, the container holding the liquor is forfeited also.

### 46 Liability of persons other than licensee

In any provision of this Act which imposes any criminal or other liability on a licensee, or provides for any power to arise or anything to happen on the conviction of a licensee, the reference to the holder includes a reference to a person who at the material time is or was a responsible person for the premises.

### 47 Disqualification

- (1) If a person who is or has been a licensee has been convicted of any offence triable on information, the court convicting the person may on the application of the Chief Constable make an order disqualifying the person for holding or obtaining a licence under this Act for such period (not exceeding 2 years) as the Court may direct.
- (2) A licence is void if it is granted to a person while an order under this section is in force in relation to that person.

### 48 Suspension or revocation of licence

- (1) Despite any other power to suspend or revoke a licence under this Act, where —

- (a) the licensee,
  - (b) a responsible person, or
  - (c) an employee or agent of the licensee,
- is convicted of any offence under this Act, the court by which the person is convicted may by order suspend the licence for such period (not exceeding 4 weeks) as is specified in the order.
- (2) The Licensing Court or licensing authority, on an application by the Chief Constable, may by order suspend a licence of premises for such period (not exceeding 4 weeks) as may be specified in the order if it is satisfied that —
- (a) there is frequent drunkenness or other intoxication or frequent disorderly conduct on the licensed premises;
  - (b) persons in a state of intoxication are frequently seen to leave the premises;
  - (c) the premises are not so conducted as to avoid drunkenness or disorderly conduct by persons frequenting the premises; or
  - (d) the premises are frequently used for any of the activities specified in section 8 of the *Misuse of Drugs Act 1976* (liability of occupiers of premises for supply of drugs etc.)
- (3) Where under subsection (1) or (2) a court may suspend a licence, it may instead order that, for such period (not exceeding 4 weeks) as is specified in the order, liquor may not be sold, supplied or consumed on the licensed premises except during such hours as are so specified.
- (4) Where an order under subsection (3) is in force, a licensee is guilty of an offence if the licensee, except during the hours specified in the order, —
- (a) sells or supplies liquor to any person in the licensed premises, whether for consumption on or off the premises;
  - (b) permits any person to sell or supply liquor to any person in the licensed premises, whether for consumption on or off the premises; or
  - (c) permits any person (other than a person residing on the premises) to consume liquor on the licensee's premises or to take liquor from the premises.

Maximum penalty (summary) a fine of level 4 on the standard scale.

- (5) Where a court has power under this section to suspend a licence, and the licence has already been suspended under any provision of this Act at least twice in the previous 5 years, it may by order revoke the licence.
- (6) If in respect of any licensed premises any of the persons mentioned in subsection (1) has on 2 or more occasions been convicted of any offence under this Act (the offences having been committed on different days), the

Licensing Court or licensing authority may, on an application by the Chief Constable, by order revoke the licence.

- (7) Where an order has been made under subsection (5) or (6), the court may order that a licence must not be granted in respect of the premises for such period (not exceeding 2 years) as the court may direct.
- (8) Before a court suspends or revokes a licence under this section, it must, unless it determines that it is not practicable to do so, give the licensee an opportunity to make representations as to why the licence should not be suspended or revoked, as the case may be.

#### **49 Suspension or revocation etc pending appeal**

- (1) Where an order is made revoking or suspending a licence, the Licensing Court or licensing authority, or the court by which the order is made, on being notified by the licensee that the licensee intends to appeal against the order or the conviction by virtue of which the order was made, may order that the revocation be suspended —
  - (a) until the appeal is determined or abandoned; or
  - (b) if no appeal is entered, until 14 days after the date of the order.
- (2) An order under subsection (1) may be made subject to such conditions as the court by which it is made thinks just.

#### **50 Entry of licensed premises etc**

- (1) A police officer may at any time enter licensed premises for the purpose of preventing or detecting the commission of any offence under this Act.
- (2) Where a police officer demands entry to premises, any person who —
  - (a) fails or refuses to admit the officer; or
  - (b) permits any employee or agent of the licensee to fail or refuse to admit the officer,

is guilty of an offence.

Maximum penalty (summary) a fine of level 3 on the standard scale.

#### **51 Entry and search for illegal sales etc**

- (1) This section applies where a justice is satisfied by information on oath that there is reasonable ground for believing that any liquor is sold by retail, or exposed or kept for sale by retail at any place where it may not lawfully be sold by retail.
- (2) Where this section applies, the justice may by a warrant authorise a police officer —
  - (a) to enter that place (which must be named in the warrant), by force if need be, and search the place for liquor; and

- (b) to seize and remove any liquor that the officer has reasonable grounds for believing to be there for the purpose of unlawful sale there or elsewhere, or of being supplied or consumed as mentioned in subsection (1)(b).
- (3) If the owner or occupier of the place from which any liquor has been removed under subsection (2)(b) is convicted of an offence under —
  - (a) section 37 (keeping unauthorised liquor);
  - (b) section 40(1) (selling liquor without licence); orthe court by which the person is convicted must order that any liquor so removed be forfeited.
- (4) If any person is found in a place on an occasion on which a police officer seizes any liquor in pursuance of a warrant under this section, and on being asked by a police officer for his or her name and address —
  - (a) fails or refuses to give them;
  - (b) gives a false name or address; or
  - (c) having given a name or address that the officer has reasonable grounds for thinking to be false, refuses to answer satisfactorily any questions put to him or her by the officer to ascertain the correctness of the name or address given,the person is guilty of an offence.

Maximum penalty (summary) a fine of level 2 on the standard scale.

## 52 Production of licence etc

If a licensee fails within a reasonable time to produce for examination the licence, or any order of the Licensing Court or licensing authority relating to the licensed premises, on being ordered by a justice or a police officer to do so, the person is guilty of an offence.

Maximum penalty (summary) a fine of level 2 on the standard scale.

## 53 Proof of sale, consumption etc

In any proceedings for an offence under this Act —

- (a) evidence that a transaction in the nature of a sale of liquor took place is evidence of the sale of the liquor without proof that money passed;
- (b) evidence that consumption of liquor was about to take place is evidence of the consumption of liquor without proof of actual consumption; and
- (c) evidence that any person (other than the occupier of licensed premises or a person employed in licensed premises) consumed or

intended to consume liquor on the premises is evidence that the liquor was sold by or on behalf of the licensee to that person.

#### **54 Inspection of premises**

- (1) Any member of the Licensing Court or licensing authority may at any reasonable time enter and inspect any licensed premises.
- (2) Any person who obstructs a member of the Licensing Court or licensing authority in the exercise of any power under subsection (1) is guilty of an offence.

Maximum penalty (summary conviction) - a fine of level 3 on the standard scale.

- (3) On the conviction of the licensee, or a person acting on the instructions of the holder, of an offence under subsection (2), the Licensing Court or licensing authority by which the person is convicted may revoke the licence.

#### **55 Closure of premises in case of riot or violence, etc.**

- (1) If a riot happens or is expected to happen at any place, a justice, or a police officer of the rank of inspector or above, may in writing direct every licensee for premises in or near that place to close his or her premises for such period as is specified in the direction.
- (2) If any violent behaviour happens on any licensed premises a justice, or a police officer of the rank of inspector or above, may in writing direct the licensee to close the premises for such period as is specified in the direction.
- (3) The period specified in a direction under subsection (1) or (2) must not exceed the following period after the giving of the direction —
  - (a) 60 hours at a time, in the case of a direction by a justice;
  - (b) 6 hours at a time, or 12 hours in the aggregate in any period of 3 days, in the case of a direction by a police officer.
- (4) Before giving a direction under subsection (1) or (2) the justice or a police officer of the rank of inspector or above must, unless the person determines that it is not practicable to do so, give the licensee an opportunity to make representations as to why the direction should not be given.
- (5) If any person knowingly keeps premises open for the sale of liquor during the time that they are directed to be closed under subsection (1) or (2), the person is guilty of an offence

Maximum penalty (summary conviction) - a fine of level 4 on the standard scale.

- (6) Any person acting by the order of a justice, or of a police officer of the rank of inspector or above, as the case may be, may use such force as is necessary for the purpose of closing premises directed to be closed under subsection (1) or (2).

## 56 Regulations and Orders: fixed penalties

- (1) Regulations made under this Act may make provision conferring on a police officer or a person authorised by the licensing authority (if established, and in accordance with powers granted under regulations made under section 11) (“the administrator”) the power by notice to impose a fixed monetary penalty (which may be a variable fixed penalty) on a person who breaches the regulation or order (as the case may be).
- (2) Regulations may only confer such a power in relation to a case where the administrator is satisfied on the balance of probabilities that the breach has occurred.
- (3) For the purposes of this section a “fixed monetary penalty” is a requirement to pay to an administrator a penalty of an amount specified in or determined in accordance with the regulations or order (as the case may be).
- (4) Regulations may not provide for the imposition of a fixed monetary penalty that is —
  - (a) unreasonable, having had regard to the severity of the breach of the regulations or order in question; and
  - (b) in any circumstance, in excess of the amount of a fine of level 2 on the standard scale or, where the level of fine which may be imposed is a fine of level 1 on the standard scale, in excess of the amount of a fine of level 1.
- (5) Where an administrator proposes to impose a fixed monetary penalty on a person, the administrator must serve on that person a notice of what is proposed (a “notice of intent”) that complies with subsection (6).
- (6) The notice of intent may offer the person the opportunity to discharge the person’s liability for the fixed monetary penalty by payment of a specified sum (which must be less than or equal to the amount of the penalty) within a specified period.
- (7) If the person does not so discharge liability —
  - (a) the person may make written representations and objections to the administrator in relation to the proposed imposition of the fixed monetary penalty within a specified period; and
  - (b) the administrator must at the end of the period for making representations and objections decide whether to impose the fixed monetary penalty.

- (8) Where the administrator decides to impose the fixed monetary penalty, the notice imposing it ("the final notice") must include information as to —
- (a) the grounds for imposing the penalty;
  - (b) how payment may be made;
  - (c) the period within which payment must be made;
  - (d) any early payment discounts or late payment penalties;
  - (e) rights of appeal and the grounds on which a person may appeal specified in subsection (9); and
  - (f) the consequences of non-payment.
- (9) For the purposes of subsection (8)(e) the grounds on which a person may appeal against a decision of the administrator include the following —
- (a) that the decision was based on an error of fact;
  - (b) that the decision was wrong in law;
  - (c) that the decision was unreasonable.
- (10) If regulations confer power on an administrator to require a person to pay a fixed monetary penalty or a variable monetary penalty, the regulations or order (as the case may be) may include provision —
- (a) for early payment discounts;
  - (b) for the payment of interest or other financial penalties for late payment of the penalty, such interest or other financial penalties not in total to exceed the amount of that penalty;
  - (c) for enforcement of the penalty.
- (11) Provision under subsection (10)(c) may include —
- (a) provision for the administrator to recover the penalty, and any interest or other financial penalty for late payment, as a civil debt;
  - (b) provision for the penalty, and any interest or other financial penalty for late payment to be recoverable, on the order of a court, as if payable under a court order.
- (12) The regulations or order may not provide for the making of an appeal other than to a court of summary jurisdiction.
- (13) If the regulations or order make provision for an appeal in relation to the imposition of any requirement or service of any notice, they may include provision suspending the requirement or notice pending determination of the appeal.
- (14) Any monetary penalty received under regulations made under this section forms part of the General Revenue.



**57 Regulations and Orders: general**

- (1) Any power conferred by this Act on the Department to make regulations or orders includes power to make such consequential, incidental, supplementary, transitory, transitional or saving provision as the Department considers appropriate.
- (2) Regulations or orders under this Act may modify any enactment (including this Act) for the purposes of ensuring the proper operation of this Act.
- (3) Regulations or orders may create offences, provided that the penalty upon conviction of a person of an offence must not exceed, on summary conviction, a fine of level 3 on the standard scale.
- (4) Except as otherwise provided, the procedure in section 30 (“approval required”) of the *Legislation Act 2015* applies in relation to the making of any regulations or orders under this Act.
- (5) Regulations or orders under this Act may enable the Department, or such other person as may be specified in the regulations or order, to issue a direction or guidance to a person.

**PART 10 - GENERAL****58 Consultation**

Except as otherwise provided in this Act, before exercising any power to make regulations or an order under this Act, the Department must consult —

- (a) the Licensing Forum;
- (b) any person to whom the regulations or order relate, or person appearing to the Department to represent such person; and
- (c) any other person that the Department considers appropriate.

**59 Fees**

- (1) The Department may by Order prescribe any fees that are required to be paid for the purpose of the administration of this Act and, in particular, for fees in respect of —
  - (a) applications for licences, granting of licences, variations of licences and appeals;
  - (b) registrations; and
  - (c) training courses and certification of training.Tynwald procedure – negative.
- (2) An order under subsection (1) may —
  - (a) grant an exemption from the payment of a fee; or

- (b) grant a discount or deferral in respect of any fee payable under such an order.
- (3) The Department may amend or cancel such exemption, discount or deferral —
  - (a) where a condition upon which it is granted is not satisfied; or
  - (b) in any other circumstances, subject to giving reasonable notice to a person to whom the exemption, discount or deferral under subsection (2) applies.

## 60 Guidance and codes of practice

- (1) The Department may by order approve any code of practice issued (whether by the Department or not, and whether in the Island or elsewhere) for the purpose of —
  - (a) giving practical guidance to persons engaged in liquor licensing or public entertainments; and
  - (b) promoting what appears to it to be desirable practices by such persons for promoting the licensing objectives.

Tynwald procedure – affirmative.

- (2) Subject to subsection (3), the Licensing court or licensing authority may impose as a condition of a licence that the licensee must comply with a code of practice approved under subsection (1).
- (3) A contravention of a code of practice for the time being approved under this section shall not by itself give rise to any criminal or civil liability but if, in any proceedings whether civil or criminal, it is alleged that a person has contravened a provision of this Act, a failure to comply with a code of practice that at that time was approved may be relied upon as tending to establish liability.
- (4) A code of practice approved under by order made under subsection (1) must be laid before Tynwald and published.
- (5) The Department may issue guidance to persons required to be licensed under this Act and if any such guidance is issued it must be published.

## 61 Restrictive agreements

- (1) Despite any agreement or arrangement to the contrary, the tenant of licensed premises may purchase beer from any person.
- (2) Any agreement or arrangement which restricts or controls a tenant of licensed premises in the purchase of beer is void.
- (3) Where any premises have at any time been licensed under the Licensing Act 1995 or this Act, any provision in an agreement, arrangement or deed which prohibits the premises from being licensed under this Act, or

otherwise restricts the uses of the premises as licensed premises, shall have no effect.

## 62 Information sharing

- (1) The Department may by regulations make a scheme for the sharing of information between the Chief Constable and licensees about —
  - (a) persons who are subject to any order under this Act which excludes the person from licensed premises; and
  - (b) persons who are frequently intoxicated on licensed premises.
- (2) The regulations, if made, must specify —
  - (a) the nature of the information that may be shared;
  - (b) the constraints to sharing the information, having regard, in particular to the data protection legislation (within the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018, as they have effect from time to time;
  - (c) the processes for exchanging the information;
  - (d) the restrictions on the information supplied and the purposes for which it may be used; and
  - (e) such other measures as the Department considers to be appropriate for ensuring compliance with the data protection legislation.
- (3) The regulations may include provisions for the sharing of information of persons who are not persons described in subsection (1)(a) or (b) but who have requested licensees to take measures that will assist the person in his or her efforts to reduce the amount of liquor he or she consumes.

## PART 11 – REPEALS, AMENDMENTS AND TRANSITIONAL ARRANGEMENTS

### 63 Transitional provisions, amendments and repeals

- (1) The enactments specified in Schedule 1 are repealed.
- (2) The amendments specified in Schedule 2 have effect.

### 64 Triennial session of the Court under the Licensing Act 1995 extended

After section 4(5) of the *Licensing Act 1995* insert —

- (6)** Notwithstanding subsection (1) and (5), where a triennial sitting of the court is due to be held before 31st March 2022, that sitting shall instead be held before 31st March 2023.



**SCHEDULE 1**

[Section 63(1)]

**REPEALS**

The following enactments are repealed —

*Local Government (Singing Rooms) Act 1928;*

*Music and Dancing Act 1961;*

*Music and Dancing Act 1971;*

*Licensing Act 1995;*

*Licensing (Amendment) Act 2020*

Sections 243 to 253 of the *Local Government Consolidation Act 1916*;

Section 2 of the *Local Government (Miscellaneous Provisions) Act 1976*.

**SCHEDULE 2****AMENDMENT OF ENACTMENTS**

Section 63(2)

**1 Casino Act 1986 amended**

In the *Casino Act 1986* —

- (a) in sections 3(9), 5(6)(c), for “Licensing Act 1995” there is substituted **☒** Liquor Licensing and Public Entertainments Act 2021 **☒**;
- (b) in section 5A for “*Licensing Act 1995*” substitute **☒** *Liquor Licensing and Public Entertainments Act 2021* **☒**;
- (c) in sections 8(1), 12H(1), 12H(2)(b) and 22, in the definition of “liquor”, for “Licensing Act 1995” there is substituted **☒** *Liquor Licensing and Public Entertainments Act 2021* **☒**;
- (d) in section 8(2)(a), for “section 9(1) of the *Licensing Act 1995*” substitute **☒** section 15(1) (regulations: determination of application) of the Liquor Licensing and Public Entertainments Act 2021 **☒**;
- (e) after section 8(4), insert —
 

**☒**(5) The Board may only grant to the holder of a casino licence a licence for the sale by retail of liquor in an area of the casino used as a gaming room. **☒**;
- (f) section 12C(13) and 16 are repealed;
- (g) in section 12H(3), for “section 9(1) of the *Licensing Act 1995*” substitute **☒** section 15(1) (regulations: determination of

- application) of the Licensing and Public Entertainments Act 2021 ~~22~~;
- (h) in section 12I, for “section 37 of the *Licensing Act 1995*” substitute ~~23~~section 35 of the Licensing and Public Entertainments Act 2021 ~~22~~;
- (i) for Schedule 1 there is substituted —

## ~~24~~ SCHEDULE 1

### EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS SUBJECT TO WHICH THE LICENSING ACT 1995 APPLIES

#### Section 8

- (1) References to a licence shall be construed as references to a licence under section 8(2) or 12H(3) of this Act (as the context requires) and “holder of a licence” and “licensed premises” shall be construed accordingly.
- (2) The following provisions shall not apply —
- Part 1 (licensing courts);
  - Part 2 (liquor licensing) except section 15;
  - sections 28 (alterations);
  - section 29 (display of notices at licensed premises);
  - section 35 (gaming on licensed premises);
  - section 54 (inspection of premises);
  - section 40 (appeals);
  - section 47 (disqualification). ~~22~~.

## 2 Cinematograph Act 1977 amended

In the *Cinematograph Act 1977* —

- (a) in section 10(2), for “section 56 of the Licensing Act 1995” substitute ~~25~~section 40 of the *Liquor Licensing and Public Entertainments Act 2021* ~~22~~;
- (b) in section 11(1), for “under the *Music and Dancing Act 1961*, and an authorisation under section 28 of the *Licensing Act 1995* or an order under section 55 of that Act” substitute ~~26~~under the *Liquor Licensing and Public Entertainments Act 2021* ~~22~~.

## 3 Highways Act 1986 amended

In section 78(16) (provision of cafes, kiosks, etc. in highways) for “Section 57 (selling liquor without licence) of the Licensing Act 1995” there is substituted

**43**Section 41 (selling liquor without licence) of the *Liquor Licensing and Public Entertainments Act 2021* **42**.

#### 4 Hypnotism Act 1988 amended

Section 3(2) of the Hypnotism Act 1988 is repealed.

#### 5 Noise Act 2006 amended

In section 1(4) (investigation of complaints of noise from premises at night —

(a) in paragraph (b), after the semi-colon insert **43** and **42**; and

(b) for paragraphs (c), (d) and (e) substitute —

**43**(c) licensed premises under the *Liquor Licensing and Public Entertainments Act 2021*. **42**.

#### 6 Equality Act 2017 amended

In the *Equality Act 2017*, schedule 3, for paragraph 32(4)(c) substitute —

**43**(c) “sale by retail” has the meaning given in section 5 of the *Liquor Licensing and Entertainments Act 2021*; and **42**.

#### 7 Other minor and consequential amendments

In the following enactments, for “Licensing Act 1995” there is substituted “*Liquor Licensing and Public Entertainments Act 2021*” —

Enactment	Provision
Mines and Quarries Regulation Act 1950	Section 7 (Prohibition of payment of wages at public houses, etc)
Children And Young Persons Act 1966	Section 5 ( Giving intoxicating liquor to children under five)
Water Act 1991	Schedule 6, paragraph 3(2)(c) Requirement to take metered supply
Custody Act 1995	Schedule 1A (security of institutions. paragraph 1(3)(a)
Road Transport Act 2001	Section 43(5) (supply of liquor to driver or conductor)
Control of Employment Act 2014	Section 10(1) (interpretation, in the definition of “licensed premises)
Elections (Keys and Local Authorities) Act 2020	Section 119(4) and (5) Elections (disciplinary action on report etc. of corrupt practice)