

REPUBLIC OF VANUATU
BILL FOR THE
LIQUOR LICENSING (AMENDMENT)
ACT NO. OF 2022

Explanatory Note

This Bill amends the Liquor Licensing Act [CAP 52] (“the Act”).

Since the commencement of the Act in 1969, the Government has faced a lot of challenges to efficiently and effectively control the sale and supply of liquor which contributes to the increased rate of social problems.

The Government intends to control the illegal sale of alcohol without a valid licence. Thus, this Bill will ensure that any licensee who intends to continue to sell alcohol must apply within 3 months before the expiry of the license.

Currently, a lot of young people under the age of 18 years are buying and consuming alcohol. There is no proper mechanism in place for the person selling liquor to confirm the age of a person suspected to be under the age of 18 years. Therefore, the Government intends to introduce the use of National Identity Cards to confirm whether or not the person purchasing liquor is over the age of 18 years.

The Government through its respective licensing officers often faced difficulties to properly enforce the provisions of the Act. Therefore, this Bill empowers the Minister to appoint enforcement officers to assist in enforcing the provisions of the Act.

The Government intends to introduce penalty notices which is a notice to the effect that if the person served does not wish to have the matter determined by a Court, the person may pay within a time and to a person specified in the notice, the amount of penalty stated in the penalty notice.

Deputy Prime Minister and Minister of Internal Affairs



REPUBLIC OF VANUATU

**BILL FOR THE
LIQUOR LICENSING (AMENDMENT)
ACT NO. OF 2022**

Arrangement of Sections

| | | |
|----------|--------------------------|----------|
| 1 | Amendment | 2 |
| 2 | Commencement..... | 2 |

REPUBLIC OF VANUATU

**BILL FOR THE
LIQUOR LICENSING (AMENDMENT)
ACT NO. OF 2022**

An Act to amend the Liquor Licensing Act [CAP 52].

Be it enacted by the President and Parliament as follows-

1 Amendment

The Liquor Licensing Act [CAP 52] is amended as set out in the Schedule.

2 Commencement

This Act commences on the day on which it is published in the Gazette.

SCHEDULE

AMENDMENTS OF LIQUOR LICENSING ACT [CAP 52]

1 References to “of the region”

Delete all references to “of the region” in this Act.

2 References to “secretary”

Delete references to “secretary” (wherever occurring), substitute “secretary general”

3 Section 1

Insert in its correct alphabetical position:

““enforcement officer” means an enforcement officer appointed under section 22B;

“Municipality” means the area declared as a Municipality under the Municipalities Act [CAP 126];

“Provincial Government Region” means a region declared under paragraph 3(1)(a) of the Decentralization Act [CAP 230];

“secretary general” means the secretary general of a Provincial Government Council;”

4 Section 1 (Definition of “Minister”)

Repeal the definition, substitute

““Minister” means the Minister responsible for Internal Affairs;”

5 Section 1 (Definitions of “area council region”, “secretary” and “region”)

Repeal the definitions.

6 Subsection 12(1)

Delete “region or municipality or area council region” substitute “a Municipality or a Provincial Government Region”

7 Subsection 12(3)

Repeal the subsection, substitute

“(3) With the exception of Occasional Licences, a licence issued under this Act is valid for 1 year from 1 January to 31 December.”

8 Subsection 12(4)

Repeal the subsection, substitute

“(4) Subsections 12(1) and (2) apply in relation to an application for renewal of a licence.

(4A) An application under subsection (4) must be made within 3 months before the expiry of a licence.

(4B) A licensing officer of a Municipal Council or a Provincial Government Council must reject an application for renewal of a licence if the application is made in contravention of subsection (4A).”

9 Subsection 16(2)

Delete “unless the said person is accompanied by his father, mother, guardian or any other person being over the age of 18 in charge of the said person”

10 Subsection 16(5)

Repeal the subsection, substitute

“(5) Despite the provisions of this Act, if a licensee on reasonable grounds, suspects that a person is under the age of 18 years, the licensee must request such person to provide his or her National Identity Card to prove that he or she is not under the age of 18 years.”

11 Section 22 (Heading)

Delete “withdrawal”, substitute “cancellation”

12 Subsection 22(1)

Delete “withdrawal”, substitute “cancellation”

13 After section 22

Insert

“22A. Application to sell liquor after 1 year of cancellation of a licence

A person whose licence has been cancelled under subsection 22(1), may apply for a licence to sell liquor after 1 year from the date of the cancellation of that licence.

22B. Appointment of enforcement officers

The Minister may appoint the following persons to be enforcement officers for the purposes of this Act:

- (a) a licensing officer; and
- (b) a clerk; and
- (c) a secretary general.

22C. Functions of an enforcement officers

The functions of an enforcement officer is to ensure that the provisions of this Act are complied with.

22D. Powers of an enforcement officer

An enforcement officer has the power to do all things that are necessary or convenient to be done for or in connection with the performance of his or her functions under this Act.

22E. Inspection

- (1) For the purposes of implementing, inspecting and ensuring compliance with the provisions of this Act and its Regulations, an enforcement officer may:
 - (a) enter and inspect any licensed premise at any time; or
 - (b) require a person to provide any document including a licence required under this Act or its Regulations, and to make copies of such documents; or

- (c) exercise any other powers conferred on him or her under this Act or any other Act.
- (2) In carrying out an inspection under subsection (1), all enforcement officers must be present.

22F. Seizure

- (1) An enforcement officer, in exercising a power under this Act or its Regulations, must seize any liquor that the enforcement officer reasonably suspects are subject to a breach of any provision under this Act or its Regulations.
- (2) The seized liquor may be sold, destroyed or disposed of as the Minister may direct.

22G. Assistance from the police

- (1) An enforcement officer may request a police officer to assist in the performance of a function or the exercise of a power of an enforcement officer under this Act or any other Act.
- (2) A police officer must assist an enforcement officer if requested to do so by an enforcement officer.

22H. Offences and penalties

- (1) A person must not:
 - (a) provide false or misleading information, including any false or misleading report, under this Act or its Regulations; or
 - (b) hinder, or obstruct or use threatening or abusive words, or threatening gestures towards an enforcement officer; or
 - (c) carry out an activity without the relevant licence required under this Act or its Regulations; or
 - (d) fail to comply with a term or condition of a licence issued under this Act or its Regulations; or

- (e) fail to comply with any provision of this Act or its Regulation.
- (2) A person who contravenes subsection (1), is liable on conviction:
 - (a) in the case of an individual - to a fine not exceeding VT500,000 or to imprisonment to a term not exceeding 2 years, or both;
 - (b) in the case of a body corporate - to a fine not exceeding VT1,000,000.

22I. Penalty notice

- (1) An enforcement officer may serve a penalty notice on a person if it appears to the enforcement officer that the person has committed an offence under any provision of this Act.
- (2) A penalty notice is a notice to the effect that if the person served does not wish to have the matter determined by a Court, the person may pay within a time and to a person specified in the notice, the amount of penalty stated in the penalty notice.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil proceeding arising out of the same occurrence.
- (6) The Regulations may prescribe the amount of penalty payable for the offence if dealt with under this section.
- (7) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty provided for under this Act.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

22J. Immunity

- (1) A civil or criminal proceeding must not be brought against the Minister, an enforcement officer or a police officer, for anything done or omitted to be done in good faith by him or her in the execution or purported executions of his or her functions and powers under this Act.
- (2) Subsection (1) does not apply if the Minister, an enforcement officer or a police officer acted in bad faith in executing his or her functions or powers under this Act.”

14 Section 24

Repeal the section.