

Interpretation

1 In this Act,

- “analyst” means an analyst designated for the purposes of the *Food and Drugs Act* (Canada) or an analyst employed by the Government of Canada or a government of a province and having authority to make analysis for public purposes;
- “beer” means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt, hops, or any similar product in drinkable water;
- “board” means the board of directors of the Yukon Liquor Corporation established pursuant to section 3;
- “corporation” means the Yukon Liquor Corporation established pursuant to section 3;
- “food primary premises” means premises in respect of which a food primary licence has been issued;**
- “inspector” means a person appointed as an inspector pursuant to this Act and includes a member of the Royal Canadian Mounted Police engaged in the enforcement of this Act;
- “intoxicated” and “intoxicated condition” each mean the condition a person is in when their capabilities are so impaired by liquor that they are likely to cause injury to themselves or be a danger, nuisance, or disturbance to others;
- “licence” means a licence issued under this Act and includes a permit issued under this Act;
- “licensed premises” means premises in respect of which a licence has been granted and includes any building or other place appertaining to those premises;
- “licensee” means a person named as a licensee in a licence and includes a person named as a permittee in a permit;
- “liquor” means any beverage that contains more than one-half per cent by volume of absolute alcohol at 16 degrees Celsius;
- “liquor manufacturer” means a manufacturer of beer, spirits, or wine;
- “liquor primary premises” means premises in respect of which a liquor primary licence has been issued;**
- “minor” means a minor as described in the *Age of Majority Act*;
- “package” means any container, bottle, vessel, or other receptacle used for holding liquor;
- “permit” means a permit to sell or serve liquor pursuant to this Act;
- “president” means the president of the Yukon Liquor Corporation appointed pursuant to section 10;
- “public place” means any place to which the public have access as a right or by invitation, expressed or implied, and includes a vehicle in a public place;

“residence” means

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

“sale” includes the exchange, barter, and traffic of liquor and the selling, supplying, or distributing by any means whatever of liquor;

“spirits” means any beverage that contains alcohol obtained by distillation, mixed with drinkable water and other substances in solutions, and includes brandy, rum, whiskey, gin, vodka, and liqueurs;

“sports stadium” means an establishment with stepped rows of seats designed and used for presentation of a sporting or athletic event or spectacle, and includes an amphitheatre or arena;

“vehicle” means any means of transportation by land, water, or air and includes any motor car, automobile, truck, tractor, aircraft, vessel, boat, launch, canoe, or any other thing used in any way for transportation;

“wine” means any liquor obtained by the fermentation of the natural sugar contents of fruit, including grapes, apples, berries, or any other agricultural product containing sugar including honey and milk.

Ministerial responsibility

2 Responsibility for the administration of this Act and for the corporation shall each be assigned to the same Minister.

Yukon Liquor Corporation

- 3** (1) There shall be a corporation entitled the “Yukon Liquor Corporation” consisting of those persons who from time to time comprise the board.
- (2) The members of the board shall be not less than three in number and shall be appointed by the Commissioner in Executive Council to hold office at pleasure for a period not exceeding three years from the date of their appointment.
 - (3) A retiring board member is eligible for reappointment.
 - (4) In the event of the absence or incapacity of a member of the board, the Commissioner in Executive Council may appoint a person to take the place of that member for any period of time considered fit.

- (5) If a casual vacancy occurs in the board, the Commissioner in Executive Council may appoint a person to fill the vacancy for the unexpired portion of the retiring member's term of office.
- (6) No vacancy on the board impairs the right of the remaining member or members to act until the vacancy is filled.
- (7) If a licensee appeals a suspension of their licence pursuant to subsection 18(3) and a quorum of the board is not available to hear the appeal summarily, a member of the board may, with the consent of the appellant and the president, hear the appeal and in that case the member hearing the appeal has all the jurisdiction in respect of the matter as a quorum of the board.
- (8) The Commissioner in Executive Council shall appoint one of the members of the board to be the chair and one or more of the members of the board to be vice-chairs.
- (9) Except as provided by subsection (7), a majority of the board shall constitute a quorum.
- (10) The board may make bylaws regulating its proceedings and generally for the conduct and management of the affairs of the corporation.

Remuneration

- 4 The Commissioner in Executive Council shall set
- (a) the remuneration to be paid to the members of the board; and
 - (b) the travelling and living expenses to be paid to the members of the board in connection with the performance of their duties when absent from their ordinary place of residence.

No action against board members

- 5 No action or proceedings shall be taken against any member or members of the board or in the name or names of the members of the board for anything done or omitted to be done in or arising out of the performance of their duties under this Act.

Conflict of interest

- 6 (1) No member of the board shall be directly or indirectly interested or engaged in any business or undertaking dealing in liquor in the Yukon
- (a) as owner, part owner, partner, member of a syndicate, shareholder, agent, or employee; or
 - (b) for their own benefit or in any capacity for some other person.
- (2) No member of the board and no person appointed pursuant to section 10 shall solicit or receive directly or indirectly any commission, remuneration, or gift of any kind from a person or corporation having sold, selling, or offering liquor for sale to the corporation pursuant to this Act, or from any applicant for a licence.

Administration

- 7 The corporation shall administer and enforce this Act.

Powers of the corporation

- 8** (1) Subject to this Act and the regulations, the corporation has the sole power and jurisdiction to
- (a) establish and operate liquor stores and warehouses;
 - (b) set the price at which liquor may be sold at liquor stores;
 - (c) buy, import, possess, and sell liquor;
 - (d) control the sale, advertising, storage, manufacture, distribution, transport and delivery of liquor;
 - (e) issue, refuse, cancel, or suspend licences and permits;
 - (f) determine the classes, varieties, and brands of liquor to be kept for sale at liquor stores;
 - (g) control the conduct, operation, and equipment of any premises where liquor is sold pursuant to this Act;
 - (h) control the alcoholic content of liquor and the amount to be purchased at one time;
 - (i) control the types and markings of glasses used for serving liquor in licensed premises;
 - (j) determine the liquor purchase records to be kept by licensees;
 - (k) inquire into any matter relating to or arising from the operation of this Act;
 - (l) control and regulate the business activities of agents, representatives, and employees of liquor manufacturers and distributors; and
 - (m) do all things considered necessary or advisable for the purpose of carrying this Act into effect.
- (2) In the performance of its powers and duties related to the issuing, cancelling, and suspending of licences and permits, the board is independent of and not accountable to the Minister; for the performance of its other powers and duties the board is accountable to the Minister..

Directives

- 9** (1) Subject to subsection (2), the Commissioner in Executive Council may issue directives to the corporation with respect to the exercise of the powers and functions of the corporation.
- (2) Subject to a directive under subsection (1), the minister and the corporation shall negotiate annually a protocol about performance expectations for the corporation to meet and roles of the minister, board, and president, respectively, in the work of the corporation; the protocol becomes effective when agreed to by the minister and the corporation.
- (3) Subsection (1) does not authorise a directive, and subsection (2) does not authorise a protocol, about how the board should dispose of an application or an appeal about the issuing, cancelling, or suspending of a licence or a permit, if that application or appeal was made before the directive was issued.

- (4) The board, the president and other officers, and the staff of the corporation shall comply with and implement any directive under subsection (1) and any protocol under subsection (2).
- (5) Compliance by the corporation with a directive under subsection (1) and a protocol under subsection (2) is deemed to be in the best interests of the corporation.

Management and staff of the corporation

10 (1) The Commissioner in Executive Council shall appoint a president of the corporation in accordance with the Public Service Act.

- (2) The president has signing authority for all expenditures, orders, contracts, written notices, directions, and recommendations on behalf of the board.
- (3) The president may, subject to approval by the board, enter into arrangements with another liquor board, commission or similar body in a province to supply liquor to a liquor store in that province if it is not feasible for that province to do so.
- (4) The employees that are needed to carry out the work of the corporation shall be appointed and employed under the *Public Service Act*.

Revenue and expenditures

11 (1) All money received from the sale of liquor and from licence fees, permits, or any other money derived from the administration of this Act and the regulations shall be deposited to the credit of a special account of the Yukon Consolidated Revenue Fund known as the Liquor Corporation Fund.

- (2) The Liquor Corporation Fund shall be in the chartered bank designated by the Commissioner in Executive Council.
- (3) From and out of the Liquor Corporation Fund there may be paid all expenses incurred in the administration of this Act including, without limiting the generality of the foregoing,
 - (a) the cost of all liquor purchased pursuant to the Act;
 - (b) the cost of transporting, storing, and insuring that liquor;
 - (c) the purchase or rental of lands, buildings, or equipment required for storing liquor, liquor stores, offices, and the cost of maintaining those lands, buildings, or equipment, including insurance thereon;
 - (d) the costs of administering offices and liquor stores, including the rental of equipment, furniture, and supplies;
 - (e) the remuneration of persons appointed under this Act for the administration of this Act and the payment of their necessary travelling and removal expenses;
 - (f) the employer's share of unemployment insurance, workers' compensation, and other assessments in respect of the persons referred to in paragraph (e);
 - (g) the printing of licences, permits, listings, notices, and other stationery required for the purposes of this Act;
 - (h) the payment of any expenses considered necessary concerning any hearing held pursuant to this Act;

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- (i) expenditures to promote reasonable use of liquor, to mitigate the effects of the abuse of liquor, and to encourage or administer programs for the recycling of the containers in which the liquor is stored or sold;
 - (j) any other necessary expenses pursuant to this Act.
- (4) All property, whether real or personal, all money acquired, administered, possessed or received by the corporation and all profits earned in the administration of this Act or regulations shall belong to the Government of the Yukon.

Transfer of revenue to Y.C.R.F.

- 12** (1) The corporation shall, at the beginning of each month of the financial year, transfer the estimated net revenue of its previous month's operation from the Liquor Corporation Fund to the **Deputy Head of the Department of Finance**, but the total annual amount so transferred shall not exceed the net revenue of the financial year established by audit and the amount so established shall be adjusted to the amount to be transferred in the transfer covering the final month of each financial year.
- (2) In this section, the expression "net revenue" means net revenue before depreciation, less amounts spent on capital.

Audit

- 13**(1) The accounts and financial transactions of the corporation are subject to the audit of the Auditor General of Canada, and for the purpose the Auditor General is entitled
- (a) to have access to all records, documents, books, accounts, and vouchers of the corporation; and
 - (b) to require from officers of the corporation any information the Auditor General considers necessary.
- (2) The Auditor General shall report annually to the Minister the results of the Auditor General's examination of the accounts and financial statements of the corporation, and the report shall state whether, in the Auditor General's opinion,
- (a) the financial statements represent fairly the financial position of the corporation at the end of the financial year and the results of its operations for that year in accordance with the accounting policies of the corporation applied on a basis consistent with that of the immediately preceding year;
 - (b) proper books of account have been kept and the financial statements are in agreement with the books of account; and
 - (c) the transactions of the corporation that have come under the Auditor General's notice are within the powers of the corporation under this Act or any other Act that applies to the corporation.
- (3) In the report the Auditor General shall call attention to any other matter within the scope of the Auditor General's examination that should be brought to the attention of the Minister in the Auditor General's opinion.
- (4) The Auditor General from time to time may make to the corporation or the Commissioner in Executive Council any other reports considered necessary by the Auditor General or that the Minister may require.

- (5) The annual report of the Auditor General shall be included in the report referred to in section 15.

Annual report

- 14** The corporation shall after the end of each financial year prepare and submit to the Minister an annual report for the 12 months ending on March 31.

Content of annual report

- 15** The annual report shall contain
- (a) a statement of the nature and amount of the business transacted by the corporation during the year;
 - (b) a statement of assets and liabilities of the corporation, including a profit and loss account and any other accounts and matters necessary to show the result of the operations of the corporation for the year; and
 - (c) general information and remarks with regard to the working of the laws relating to liquor in the Yukon,
- and the annual report shall be signed by the president.

Tabling of annual report

- 16** The Minister shall table a copy of the annual report at the next ensuing session of the Legislative Assembly.

Licensing

Suspension of licence

- 17** (1) The president may by order for cause that the president considers sufficient suspend any licence issued under this Act.
- (2) A suspension of a licence ordered pursuant to subsection (1) shall be for a period of time not exceeding 12 months.
 - (3) If a suspension is ordered pursuant to subsection (1), the suspension may be terminated before the expiration of the 12 month period by a further order of the president.

Suspension procedure

- 18** (1) If a licence is suspended pursuant to section 17, the president shall immediately notify the licensee.
- (2) Notice of suspension of a licence shall be given in writing and served personally or sent by registered mail to the holder of the licence at the address stated therein, and the suspension takes effect on the day and hour specified by the president in the notice.
 - (3) A licensee may appeal against the suspension of their licence by serving a notice of appeal on the president within 30 days of the date of the notice of suspension.
 - (4) On receipt of the notice of appeal, the president shall refer the matter to the board for a decision and is bound by their decision.

- (5) On receipt of a request by the board from the president for a decision in accordance with this section, the board shall immediately enquire into the matter and shall, after hearing the licensee and the president and any evidence which may be adduced before them, make a decision.
- (6) The board may decide that the suspension be continued, that the licence be reinstated either immediately or at a future date, that the licence be reinstated or re-issued subject to conditions, or that the licence be cancelled.
- (7) The board shall give written reasons for its decision to the president and the licensee.
- (8) The president and the licensee may be represented by agent or counsel.

Oaths and affidavits

- 19** Every member of the board and every official authorized to issue licences under this Act may administer any oath and take and receive any affidavit or declaration required under this Act or the regulations.

Signature on board documents

- 20** Written notices, orders, directions, and recommendations of the board may be signed by the chair or other member of the board or any person authorized to do so by the chair.

Expiration of licence

- 21** Every licence becomes effective and expires on the respective dates stated therein.

Forfeiture of liquor

- 22** (1) If a person receives notice of the suspension or cancellation of their licence they shall, if so ordered in the notice, immediately deliver to the president all liquor then in their possession or under their control.
- (2) If the liquor delivered to the president pursuant to subsection (1) is suitable for resale by the president and has been lawfully acquired by the holder of the licence, the president shall refund the cost of that liquor to the holder.
- (3) Any liquor delivered to the president pursuant to subsection (1) that is not purchased by the president shall be forfeited to the corporation to be destroyed or otherwise disposed of by the president.
- (4) Despite subsections (2) and (3), the cost of liquor shall not be refunded, nor shall any liquor delivered to the president be destroyed or disposed of, until after any appeal made against the order of the president or the board has been decided or the appeal period has expired, and if the decision of the president in respect of the suspension or cancellation is reversed by the board or the Supreme Court the liquor shall be dealt with in accordance with any order of the board or the Supreme Court in respect of the appeal.

Classes of licences

- 23** Subject to this Act and the regulations, the corporation has the jurisdiction to grant
- (a) liquor primary licences,**
 - (b) food primary licences,**
 - (c) train, ship, or aircraft licences,**

- (d) recreation facility licences,
- (e) sports stadium licences,
- (f) off premises liquor licences,
- (g) RV park licences,
- (h) special licences,
- (i) club liquor licences,
- (j) liquor manufacturer's licences, and
- (k) liquor manufacturer's retail licences.

Authority of licence

- 24 (1) A licence issued pursuant to paragraphs paragraphs **23(a) to (i)** authorizes the licensee to purchase from the president and to sell liquor subject to the terms and conditions set out in the licence.
- (2) A licence issued pursuant to paragraph paragraph **23(j)** authorizes the licensee to manufacture the liquor mentioned in the licence and to sell it subject to the terms and conditions set out in the licence.
- (3) A licence issued pursuant to paragraph paragraph **23(k)** authorizes the licensee to sell the liquor specified in the licence, subject to the terms and conditions set out in the licence.
- (4) Except as provided in this Act, no person may sell or keep for sale liquor without a licence.

Application for new licence

- 25 (1) Every applicant for a new licence shall make their application to the board in the prescribed form and shall provide
- (a) an affidavit in the prescribed form;
 - (b) a detailed sketch of the premises showing the rooms, services, buildings, construction material, and other pertinent information;
 - (c) a statement setting out the hours that they will keep their premises open during the licence year or any part or parts thereof;
 - (d) the report of an inspector and the reports of any inspection required pursuant to any Act or bylaw;
 - (e) any other requirements the board may require; and
 - (f) the prescribed fee.
- (2) For the purpose of considering an application for a licence under subsection (1), the president or the board may cause to be made an inspection of the premises and any other investigation the president or the board thinks necessary.

- (3) If an application for a licence has been refused by the board, no fresh application may be made within a period of one year from the date of the refusal except by special leave granted at the discretion of the board.

Public notice of application

- 26** (1) Every applicant shall give public notice of the making of an application by publication for three successive weeks in a newspaper circulating in the area in which the premises are situated in the prescribed form at or about the time of the making of the application but before the hearing of the application.
- (2) Proof of publication of the advertisement shall be filed by the applicant with the president before the hearing of the application.

Reference of application to the board

- 27** On receipt of an application for a new licence, the president shall refer the application to the board for a decision and shall forward to the board any relevant material or objections which may be received.

Consideration of application by the board

- 28** On receipt of the application for a new licence, the chair shall call a meeting of the board, which shall immediately proceed to consider the matter.

Objections

- 29** Any person may object to the granting of a licence by filing their objection together with the reasons therefor in writing with the president not later than the fifth day after the latest publication of the advertisement referred to in section 26 and serving a copy thereof by registered mail on the applicant.

Recommendation for the granting of a licence

- 30** (1) If no objection to the granting of the licence has been received in accordance with section 29 and the board is satisfied that the requirements of the Act and the regulations have been complied with and that a licence should be issued with or without conditions attached, the board shall so decide.
- (2) If the board decides that the application for a licence should be granted with conditions it shall give the applicant an opportunity to make representations concerning the conditions.

Hearing

- 31** If any objection to the application has been made pursuant to section 29, the board shall set a day at least 10 days after the last day of publication referred to in section 26 for hearing representations on behalf of the applicant and the president and on behalf of the person or persons who have filed an objection pursuant to section 29.

Decision of the board

- 32** The board shall meet on the day set for the hearing to consider the application and the objections, and shall decide whether the licence be granted or not and if granted the terms and conditions of the grant.

Place of hearing and notice of decision

- 33** (1) The board shall meet to consider the application at the place in respect of which the application is made or as near thereto as is reasonably practical having regards to all the circumstances.
- (2) On reaching a decision, the chair of the board shall communicate the decision together with written reasons therefor to the applicant, the president and any persons who may have made objection to the issue of the licence.

Application respecting premises under construction

- 34** (1) If an applicant for a new licence has not constructed or completed the premises in respect of which the application is made they may nevertheless apply for a new licence.
- (2) If an application is made under this section, the president shall refer the matter to the board and the board shall proceed to consider the application, and the provisions of sections 27 to 33 shall apply *mutatis mutandis*, but the board shall make a provisional decision only.
- (3) If the provisional decision of the board is that the application should be granted, the applicant may be granted a licence if within two years of the making of the provisional recommendation they complete a premises in accordance with the plans and specifications submitted to the board with their application and forward to the president the report of an inspector and any inspection required pursuant to any Act or bylaw that the premises have been so constructed and that all requirements and conditions for the granting of the licence have been met and complied with.
- (4) If the applicant does not comply with subsection (3), they may make a fresh application.

Renewal of licences

- 35** (1) An application for a renewal of an existing licence may be granted by the president without reference to the board.
- (2) The president may refer an application pursuant to subsection (1) to the board.
- (3) Despite subsection (1), any person may object to the renewal of a licence by filing their objection in the prescribed form with written reasons therefor with the president, not later than January 1 before the renewal date of the licence.
- (4) If any objection is received to the renewal of a licence, the matter shall be referred by the president to the board for a decision.
- (5) If the application for a renewal is referred to the board, the provisions of sections 28, 32, and 33 and subsections 25(2) and 30(2) shall apply *mutatis mutandis*.
- (6) Notice of the objection pursuant to subsection (3) shall be served by the objector on the licensee either in person or by registered mail at the same time as the objection is filed with the president.
- (7) Any objector who has complied with this section may appear at the hearing and may be represented by agent or counsel.
- (8) The licensee and the president may be represented at the hearing by agent or counsel.

- (9) Every licence for the sale of liquor shall be held to be a licence and valid only so long as the premises named therein are operational for at least three months of the licence year.
- (10) When a licence has not been renewed for a period of one year, it shall be deemed a new application.

Advertisement exemptions on renewal

- 36** The provisions of section 26 shall not apply to applications for renewal of a licence unless so ordered by the board or the president.

Considerations in granting a new licence

- 37** The board in considering whether or not to grant a new licence shall, in addition to any matters brought to its attention by the applicant or the president, consider
- (a) the number of licences in the area in respect of which the application relates;
 - (b) the number of different types of licences in the area;
 - (c) the population of the area including seasonal variations and also including variations in the immediate area to be served by the licence and more distant areas capable of being served by the licence;
 - (d) the economic activity carried on in the area or projected to be carried on, including seasonal variances;
 - (e) in the case of an application under section 34, the projected capital expenditure to be made in respect of the application;
 - (f) in the case of an application under section 25, the amount of capital expenditure already made by the applicant;
 - (g) repealed*
 - (h) the need for a new licence in the area either because of the requirements of the stable population of the area or the travelling public, actual or projected;
 - (i) how the applicant or their associates have operated any previous licence held by either of them;
 - (j) the arrangements to be made by the applicant for operating and controlling the premises; and
 - (k) the type of structure to be built, or added to present structures, permanent structures having preference.

Liquor primary premises

- 38 (1) A liquor primary licence may be issued in respect of a premises if the primary purpose of the business carried on is the service of liquor to customers for consumption on the premises.**
- (2) A liquor primary licence entitles the licensee to sell liquor, subject to the regulations, for consumption on the licensed premises.**

- (3) It shall be a condition of every liquor primary licence that adequate facilities be provided for providing food to customers on the licensed premises when the premises are open for the sale of liquor.**

Food primary licence

- 39 (1) A food primary licence may be issued in respect of a premises if the primary purpose of the business carried on is the service of food to customers for consumption on the premises.**
- (2) A food primary licence entitles the licensee to sell liquor, subject to the regulations, for consumption on the licensed premises, with or without providing a meal at the same time to the person to whom the liquor is sold.**

Dual licensing

- 40 Except as provided by the regulations, a liquor primary licence and a food primary licence shall not be issued in respect of the same premises.**

(sections 41-43 repealed)

Trains, ships, and aircraft

- 44** The holder of a train, ship, or aircraft licence may sell liquor on a train, ship, or aircraft while the train, ship or aircraft is in transit on a trip, the main purpose of which is the transporting of passengers from one point to another point.

Recreation facilities

- 45 (1)** A recreation facility licence entitles the licensee to sell liquor on the licensed premises on the days and during the hours determined by the board and endorsed on the licence.
- (2)** A recreation facility licence shall not be issued unless, subject to the approval of the board,
- (a)** the licensed premises contain a room set aside and equipped with facilities for the sale of liquor;
 - (b)** the licensed premises contain recreation facilities in accordance with the regulations;
 - (c)** the licensee establishes a system of memberships in accordance with the regulations for use in controlling access to the area of their premises where liquor is served or consumed;
 - (d)** the licensed premises are constructed, equipped, and operated in accordance with this Act and the regulations.
- (3)** The holder of a recreation facility licence shall not permit more than two guests of any one member to be present at once in the area of the holder's premises where liquor is served or consumed, and shall not permit any guests to be present in that area in the absence of the member who introduced them under subsection 50(6).
- (4)** Subsections 50(2) to (6) and 51(1) to (3) apply with the necessary changes in respect of recreation facility licences.

Sports stadiums

- 46 (1) A sports stadium licence entitles the licensee to sell beer and cider on the licensed premises on those days and during those hours that may be determined by the board and endorsed on the licence.
- (2) A sports stadium licence may be issued to a society under the *Societies Act* in respect of the presentation, in a sports stadium, of sporting or athletic events or spectacles approved by the board and endorsed on the licence.
- (3) A sports stadium licence shall not be issued unless, subject to the approval of the board,
- (a) the licensed premises contain an area set aside and equipped with facilities for the sale of beer and cider; and
 - (b) the licensed premises are constructed, equipped and operated in accordance with this Act and the regulations.

Off-premises sales of liquor

- 47 The board may, subject to the regulations, issue a licence allowing the retail sale of liquor in any licensed premises for off-premises consumption subject to any conditions the board may direct.

RV parks

- 47.1 (1) An RV park licence may be issued in respect of a premises if the primary purpose of the business carried on is the provision of overnight accommodation to persons traveling in recreational vehicles.**
- (2) An RV park licence entitles the licensee to sell beer or wine, subject to the regulations, on the premises to a person who is, at the time of the sale, a *bona fide* registered overnight guest of the RV park.**

Special licences

- 48 Despite any other provision of this Act the board may, subject to the regulations, in its discretion grant a licence for the sale of liquor under circumstances not otherwise provided for in this Act.

Clubs

- 49 (1) A club beer licence entitles the licensee to sell beer, ale, and cider on the licensed premises.
- (2) A club general licence entitles the licensee to sell all liquor on the licensed premises.
- (3) A club may sell liquor during a continuous period of 14 hours ending not later than two o'clock in the forenoon of any day.

Conditions respecting club licences

- 50 (1) No club licence shall be granted under this Act to a club which is a proprietary club or which is operated for pecuniary gain.

- (2) No club licence shall be granted under this Act unless
 - (a) the club premises are constructed, equipped, and operated to the satisfaction of the board and in accordance with this Act and the regulations;
 - (b) the club has a permanent local membership of a number which, having regard to the size of the community, is satisfactory to the board; and
 - (c) the application for the club licence is approved by two-thirds of the club members who are present at a general or special meeting which is called to consider the application and is attended by not less than 50 per cent of the club members.
- (3) A member of a club may purchase liquor for consumption on the club premises for guests of the member who are of the full age of 19 years and not otherwise disqualified under this Act from purchasing and consuming liquor.
- (4) Every club licensee shall keep a register of the members of the club and the register shall be open to inspection by an inspector at all times.
- (5) Every club licensee shall post its licence and keep it posted in a prominent position on the club premises.
- (6) Every club licensee shall keep a visitor's register in which shall be entered the name and address of each guest on the club premises, the name of the member by whom the guest was introduced and the time and date of admission.

Unauthorized persons in clubs

- 51** (1) No person not a member or employee of the club or a guest of a member whose name as a guest is registered in the visitor's register of the club shall be permitted to be or remain in any part of the club in which liquor is being sold, served, or consumed.
- (2) The failure of any person, being in any room in which liquor is had, kept, or consumed in licensed club premises, to produce to an inspector or peace officer in the premises evidence that they are a member of the club, or that they are otherwise lawfully present, shall be admissible in any prosecution or proceedings under this Act against the club or person as evidence that the person was not then a member of the club.
 - (3) No liquor shall be sold, served, or consumed on the premises of any club or other organization, whether incorporated or not, unless the club or organization is the holder of a club licence or a permit under this Act.

New Year's Eve

- 52** Despite any other section, a licensed premises may remain open for the purposes stated on the licence from nine o'clock of the afternoon of December 31 until three o'clock in the forenoon of January 1.

Reception and special occasion permits

- 53** (1) The president may, subject to the regulations, on the receipt of an application in the prescribed form,
- (a) issue a reception permit to any person in charge of a reception; or

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- (b) issue a special occasion permit to any person acting on behalf of, and authorized in writing to act on behalf of, a non-profit organization, whether or not it is incorporated.
- (2) No person shall serve liquor at a reception held in a public place except under the authority of a reception permit issued under this section.
- (3) The holder of a reception permit may serve liquor in the room or at the place mentioned in the permit.
- (3.1) Subject to the regulations, a reception permit authorizes the holder to serve at the reception**
- (a) liquor purchased from the corporation; and**
- (b) homemade wine or home made beer possessed by the holder of the permit under subsection 88(2).**
- (4) No person may sell liquor at a reception nor make any charge for admission to the reception.
- (5) The holder of a special occasion permit may purchase liquor at a liquor store and serve and sell liquor in the room or at the place mentioned in the permit.
- (6) Any application made under subsection (1) shall be signed by the applicant.
- (7) A permit may be refused but the circumstances of the refusal shall be reported immediately to the president.
- (8) Any person aggrieved by the refusal of a permit may, through the president, appeal to the board and the board shall deal with the matter immediately and informally.
- (9) The place where the reception or special occasion is to be held shall be sufficient to accommodate the number of people mentioned in the application for a permit.
- (10) No permit shall be issued for the holding of a reception or special occasion in that part of a **liquor primary premises** set aside for the sale of liquor to the public.
- (11) The holder of a permit shall be responsible for the lawful use of the permit.
- (12) The holder of a permit shall, on the request of any peace officer or inspector, admit the peace officer or inspector to the hall, room, or place where the reception or special occasion is being held for the purpose of inspecting it and otherwise carrying out their duties.
- (13) A permit issued under this section shall be retained in the hall, room, or place where the reception or special occasion is held and shall be available to any peace officer or inspector wishing to examine it.
- (14) No reception or special occasion at which liquor is served shall be held in any room in which meals are being served to the public at the same time that the reception or special occasion is being held.
- (15) Every person who makes an application for a permit under this section on behalf of any fictitious organization, who makes application for any purpose contrary to this section or who uses any fictitious name in making application, is guilty of an offence.

- (16) Every holder of a permit granted under this section who uses it or permits it to be used in any manner contrary to this section is guilty of an offence.
- (17) Every permit shall be for a period and subject to any conditions that may be imposed by the board.
- (18) A special occasion permit may not be issued
 - (a) in respect of more than five days in succession;
 - (b) to any organization for more than 26 days in any financial year of the corporation; or
 - (c) for use during polling hours on any day on which polling is taking place in the area where the premises are located.
- (19) No person shall be violent, quarrelsome, riotous, or disorderly at a reception or special occasion.
- (20) An inspector may suspend a permit issued pursuant to this section for disorderly conduct on the premises in respect of which the permit is issued.

Miscellaneous permits

54 (subsections 1-3 repealed)

- (4) The president may issue to any person an import permit allowing the person to import liquor into the Yukon.
- (5) The president may issue a liquor permit for scientific, industrial, or medicinal purposes.
- (6) A permit pursuant to subsections (4) and (5) may be granted by the president subject to any terms and conditions that may be set by the board.
- (7) No permit may be issued to a person who is under the age of 19 years.

Validity of licence

- 55** (1) Every licence for the sale of liquor shall be held to be a licence only to the person and premises therein mentioned, and is valid only as long as the person continues to be the true owner or lessee of the business there carried on.
- (2) If a licensee dies or sells or otherwise assigns their business or becomes dispossessed of it by bankruptcy or by operation of law, then, subject to sections 57 and 60, the licence *ipso facto* becomes void and shall be forfeited.

New licence if previous destroyed

- 56** (1) If premises in which liquor may be served pursuant to a licence are substantially destroyed, the board shall cancel the licence within 60 days of the date of the destruction.
- (2) If a licence is cancelled under subsection (1) and the destroyed premises are being reconstructed, the licensee may make application for a new licence under this Act.

- (3) If a person makes application for a new licence pursuant to the provisions of subsection (2), the person shall provide any information required by the board concerning the premises as they will be reconstructed, and shall file with the board plans and specifications showing the location, layout, and construction of the proposed premises to the satisfaction of the board.
- (4) If a person makes an application under subsection (2), the provisions of section 26 and 29 do not apply.

Interim licences

- 57** (1) The board may, in a case to which section 55 applies and if it seems to it proper, grant an interim licence in respect of the premises to any person who appears to be entitled to the benefit thereof, as personal representative of a deceased licensee or as an assignee, receiver, mortgagee in possession, trustee in bankruptcy, or otherwise by operation of law, but no interim licence shall be for a period of more than six months and the person to whom it is granted has all the privileges and is subject to all the liabilities of a licensee under this Act.
- (2) The board may renew an interim licence issued under subsection (1) for one or more further periods not to exceed six months each.
 - (3) Despite anything herein, the board may grant an interim licence until the completion of any requirement respecting alterations to premises or compliance with any condition.
 - (4) If a licence becomes void through the death of the licensee, the board, until the consideration of the application for the new licence, may issue to the personal representative of the deceased licensee an interim licence for any period additional to the six months provided in subsection (1) that the board may permit.

Minors

58 No licence authorizing the sale of liquor may be issued to a minor.

Person responsible under corporation or club licence

- 59** (1) No licence authorizing the sale of liquor may be issued to a corporation or club unless the president has been supplied with the name of the officer or agent who is to be in charge of the premises and responsible for the custody and control of the liquor sold therein.
- (2) If a corporation or club has more than one place of operation, a separate licence is required for each place of operation

Transfer of licences

- 60** (1) Every licence shall bear the name of the licensee and also in the case of a corporation or club the name of the officer or agent in charge of the premises.
- (2) No licence shall be transferred except on the written authorization of the president and subject to any conditions the president may impose.

- (3) Any corporation or partnership that is a licensee shall notify the president of any sale, assignment, or transfer of shares in the corporation or partnership, and if the purchaser, transferee, or assignee is another corporation or partnership, shall provide particulars of the names and share-holdings of the directors and members of that other corporation or partnership.
- (4) If a licensee is a corporation or partnership, any transfer, sale, or assignment of shares in the corporation or partnership which substantially changes the beneficial ownership or control of the corporation or partnership shall invalidate the licence unless the prior approval of the board to the change has been obtained.

Conditions respecting the granting of licences

61 A liquor primary, food primary or club licence shall not be granted to or held by any person unless,

- (a) they are a fit person to keep and operate the kind of premises in respect of which a licence is sought;
- (b) they are the true owner or the lessee having a written lease for not less than one year of the premises; and
- (c) the premises in respect of which they apply for a licence conform to the requirements of all laws relating thereto, are constructed so as to be sanitary and in general suitable for the carrying on of the business in a reputable way, and have been inspected and approved as such by an inspector..

Notice as to management of licensed premises

- 62** (1) If any licensee is not in personal day to day control of the licensed premises, they shall notify the president of the name of the person who is in day to day control and managing the licensed premises together with the terms of any contract arrangement between the parties, and that person's name shall be endorsed on the licence as manager.
- (2) No person named shall be endorsed on or continued on the licence unless they are a fit person in the opinion of the president to manage and operate the premises in respect of which the licence is issued.
 - (3) The president may refer the decision for endorsement of a manager on a liquor licence to the board.

Exercise of rights by corporate licensees

63 If any licence under this Act is issued to a corporation, anything required by this Act to be done by any person as licensee, whether before or after the granting of a licence, may be done in the name of the corporation by the officer or agent of the corporation in charge of the particular premises for which the licence is to be or has been granted..

Public servants

64 No licence shall be granted to or for the benefit of a person who is appointed under section 10 and no licence shall be granted in respect of any premises the owner or part owner of which, or of any interest therein, is such an appointee; and every person who knowingly recommends the issue, or is a party to the issue, of a licence in any such case commits an offence.

(sections 65 – 67 repealed)

Room service

68 (1) The holder of a liquor primary or food primary licence may sell liquor to a *bona fide* guest in the guest’s room in accordance with the regulations.

(2) Regulations made under this Act may define “guest” and regulate the conditions of room service.

Prohibitions respecting licensed premises

69 (1) No liquor may be kept for sale, sold, or served in any licensed premises, except any liquor that may be endorsed on the licence.

(2) The board shall in every licence granted specify the part of the premises to which the sale, serving, and consumption of liquor is restricted.

Conduct on licensed premises

70 (1) No licensee, and no person employed in any premises in respect of which a licence has been issued, shall

- (a) permit any person in a drunken or intoxicated condition to enter, be, or remain in the premises;
- (b) permit any riotous, quarrelsome, violent, or disorderly conduct to take place in the premises;
- (c) permit any gambling to take place in the premises; or
- (d) permit any slot machine or any device used for gambling to be placed, kept, or maintained in the premises.

(2) Paragraphs (1)(c) and (d) do not apply in respect of premises in respect of which a licence or permit has been issued to a person on behalf of a non-profit organization under section 48 or 53 if the gambling is authorized to be carried on under a licence issued under the *Criminal Code* (Canada).

(3) Paragraph (1)(c) does not apply to the sale of tickets in a raffle that is licensed under the *Lottery Licensing Act*.

Posting of licences, signs, and public notices

71 Every licensee shall post their licence and keep it posted in a prominent position in a part of their licensed premises where liquor is permitted to be sold and shall post, in the licensed premises or at the entrance thereto, any extracts from this Act, signs, and notices as the board may require or permit, but shall not post any other signs or notices.

Consumption of liquor off premises

72 Except as permitted in section 68 or a licence issued under section 47, a licensee shall not allow liquor which is purchased from the licensee to be consumed outside that part of the licensed premises in which the licensee is permitted to sell liquor.

LIQUOR CONTROL

Importation of liquor into the Yukon

73 A person entitled to possess or consume liquor may lawfully have or keep

- (a) liquor that is of a kind and up to a quantity that they are permitted under any Act of the Parliament of Canada to import into Canada without any payment of tax or duty thereon; or
- (b) (b) not more than a quart of spirits or wine or two gallons of beer if the liquor was purchased from a liquor board, commission, or similar body in another part of Canada..

Sale by authorized persons

74 No person authorized by this Act to sell liquor shall sell liquor in any other place, at any other time, in any other quantities or otherwise than as authorized by this Act.

Sale or delivery of liquor

- 75(1)** Except as authorized by this Act, no person shall by themselves or their partner, servant, clerk, agent, or otherwise, sell or deliver any liquor to any person who buys liquor for the purpose of reselling it.
- (2) No person shall take or carry, or employ or suffer any other person to take or carry, any liquor out of any premises where the liquor is lawfully kept for sale for the purposes of being sold in the Yukon by any person not authorized by this Act to sell liquor.
 - (3) Except as authorized by this Act, no person shall by themselves, their clerk, employee, servant, or agent, send or cause to be sent, bring, or carry, or cause to be brought or carried any package containing liquor from any person or place in the Yukon to
 - (a) any person who may not lawfully purchase and consume liquor; or
 - (b) any place where liquor may not be lawfully kept..

Unlawful purchase of liquor

- 76 (1)** No person shall purchase liquor from a person who is not authorized under this Act to sell the liquor.
- (2) No person who purchases liquor shall drink liquor or cause anyone to drink or allow liquor to be drunk on the premises where it is purchased except in the case of liquor lawfully purchased for consumption in premises wherein the consumption of liquor is permitted.

Unlawful use or consumption

77 (1) No person shall use or consume liquor purchased from any person in the Yukon unless it is lawfully purchased and lawfully received from some person authorized under this Act to sell the liquor.

(2) Subsection (1) does not apply to a person who innocently uses or consumes liquor not so purchased.

Delivery of liquor in a taxi cab

78 No operator of a taxi cab shall transport liquor in the taxi cab to any place without at the same time also transporting the owner of the liquor to the same place.

Powers of inspectors

79 (1) An inspector may enter and inspect any premises licensed under this Act.

(2) An inspector may issue an order to suspend a licence issued pursuant to this Act if, in the inspector's opinion,

- a) a violation of this Act or the regulations has been committed on the licensed premises;
- b) unsanitary conditions exist in the licensed premises; or
- c) the owner or operator of the licensed premises permits or encourages excessive drinking on the premises.

(3) Suspension of a licence pursuant to this section shall not be effective until a copy of the order of suspension signed by the inspector is either personally served on the licensee or posted in some prominent place on the licensed premises.

(4) If an order of suspension is posted in the licensed premises pursuant to subsection (3), a copy thereof shall be sent by registered mail to the licensee at the licensee's latest known address.

(5) Except as provided by this section, if a licence is suspended pursuant to this section, all rights and privileges conferred under this Act on the holder thereof are immediately suspended.

(6) An order of suspension made by an inspector shall be for a period not exceeding 14 days, but this period may be extended by order of the board for any period it sees fit.

(7) Despite subsection (5), if a licence is suspended pursuant to this section, the licensee may appeal to the president whereupon the provisions of subsections 18(3) to (8) shall apply *mutatis mutandis*.

(8) No person shall obstruct an inspector in the execution of duties under this Act.

Powers of inspectors to search and seize

80 (1) To ensure compliance with this Act, an inspector may, at any reasonable time, enter and inspect,

- a) licensed premises;
- b) premises with respect to which a permit has been issued; or

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- c) premises with respect to which a licence has been cancelled or suspended and liquor has not been delivered to the president as required under subsection 22(1).
- (2) If an inspector is acting under the authority of this section, the inspector shall carry identification in the form prescribed by the board and present it on request to the owner or occupant of the premises referred to in subsection (1).
- (3) If an inspector makes an inspection under subsection (1), the inspector may take reasonable samples of liquor for testing and analysis.
- (4) If the inspector, pursuant to an inspection under subsection (1),
 - a) finds any liquor that the inspector believes on reasonable and probable grounds is unlawfully acquired or kept or is kept for unlawful purposes in contravention of this Act; and
 - b) believes on reasonable and probable grounds that obtaining a warrant would cause a delay that could result in the loss or destruction of evidence,
the inspector may immediately seize and remove the liquor and the packages in which it is kept.
- (5) If an inspector seizes liquor and the packages in which it is kept pursuant to this section, the inspector shall give a receipt to the person from whom those items were taken or seized.
- (6) An inspector who makes an inspection under subsection (1), may inspect, examine, and make copies of or temporarily remove any books, records, or other documents relating to the purchase or sale of liquor, or the licence or permit, to ensure compliance with this Act, the regulations, and the licence or permit.
- (7) If an inspector removes any books, records, or other documents under subsection (6), the inspector may make copies of, take photographs of, or otherwise record them.
- (8) If an inspector removes any books, records, or other documents under subsection (6), the inspector shall give to the person from whom they were taken a receipt for them and shall, within five days, return them to the person to whom the receipt was given.
- (9) If an inspector is acting under the authority of this section, the inspector may request and receive the assistance of a peace officer.

Liquor seized by inspector

- 81** (1) If liquor is seized by an inspector pursuant to section 80, the liquor shall be delivered to the corporation and the licensee or permittee, as the case may be, shall be advised in writing of the reasons for the seizure.
- (2) The licensee or permittee, as the case may be, may, within 30 days of the mailing of the notice under subsection (1), apply in writing to the president for a hearing to request the return of the seized liquor and packages.
- (3) On receipt of an application for hearing under subsection (2), the president shall grant a hearing as soon as possible and not later than 30 days after the application is received.

- (4) If no application is made under subsection (2), the liquor shall be forfeited to the Government of the Yukon.
- (5) A person aggrieved by the decision of the president under this section may appeal to the board in accordance with the regulations. .

Unlawful soliciting and display

82 Except as permitted by this Act or the regulations, no person in the Yukon shall

- a) exhibit or display or permit to be exhibited or displayed without the approval of the president any sign or poster containing the words “bar”, “barroom”, “saloon”, “tavern”, “cocktail lounge”, “beer”, “spirits,” or “liquors”, or words of like import; or
- b) exhibit or display or permit to be exhibited or displayed any advertisement or notice of or concerning liquor by an electric or illuminated sign, contrivance, or device, or on any hoarding, signboard, billboard, or other place in public view or by any of the means aforesaid, advertise any liquor.

Saving provisions and exemptions

83(1) Despite anything in this Act, any person may, for medicinal or sacramental purposes, consume liquor or supply or administer it to any person.

- (2) If there is evidence capable of establishing that a person consumed, supplied, or administered liquor, the burden of establishing that the consumption, supplying and administering of liquor was for medicinal purposes, is on the person who consumes, supplies, or administers it, and a justice who tries a case may draw inferences of fact from the frequency with which the liquor is consumed, supplied, or administered, from the amount of liquor so used, and from the circumstances under which it is used.

Exemption for medicines

84 Despite anything in this Act, any person may sell, purchase, have in their possession, or consume

- a) any pharmaceutical preparation containing liquor that is prepared by a druggist according to a formula of the *British Pharmacopoeia*, the *Codex Medicamentarius* of France, the *Pharmacopoeia* of the United States or the *Canadian Formulary*; or
- b) any proprietary or patent medicine within the meaning of the *Food and Drugs Act* (Canada)
- c) and may purchase, have in their possession or consume any alcohol for any *bona fide* industrial or scientific purpose.

Exemption for other products

85 If a toilet or culinary product, perfume, lotion, or flavouring extract or essence contains alcohol and also contains an ingredient or medication that makes it unsuitable as a beverage, a druggist or other person who manufactures or deals in the product may purchase or sell the product and any other person may purchase or use it for any purpose other than as a beverage, but if the justice hearing a complaint respecting selling, buying, or consuming the product is of the opinion that an unreasonable quantity of any such product, having regard to the purposes for which it was legitimately manufactured, was sold or otherwise disposed of to any person or persons either at one time or at intervals

and proof is also given that the product so sold or disposed of was used for beverage purposes by any person, the person selling or otherwise disposing of it may be convicted of selling liquor contrary to this Act and any person who obtains or consumes for beverage purposes any of the products mentioned in this section commits an offence.

Coincidental powers of the board and justices

86 If by any provision of this Act power is given to a justice respecting any matter, thing, or person and by the same or any other provision, further or other power is given to the board respecting the same matter, thing, or person, the latter power shall be in addition to and not in substitution for the former.

Recommendation by court for licence suspension

- 87** (1) A judge of the Territorial Court or justice who convicts a licensee of an offence pursuant to this Act may, in addition to any other penalty, recommend to the board a suspension or cancellation of a licence held by the licensee.
- (2) If a recommendation is made by a judge or justice under this section, the president may cancel or suspend the licence.

Unlawful possession of liquor

- 88** (1) **Except as provided by subsection (2),** no person shall have or keep in their possession any liquor unless purchased in accordance with this Act.
- (2) **A person who is 19 years of age or older may, subject to the regulations, have or keep in their possession home made beer or home made wine that they have made or received as a gift.**

Liquor in motor vehicles

- 89** (1) No person shall consume liquor in a motor vehicle while that motor vehicle is being driven by them or any other person or is in their care and control or the care and control of any other person for the purpose of setting the motor vehicle in motion.
- (2) In any proceedings under this section,
- if it is proved that a person occupied the seat ordinarily occupied by the driver of a motor vehicle, that person shall be deemed to have had the care or control of the vehicle unless the accused establishes that the person did not enter or mount the vehicle for the purpose of setting the motor vehicle in motion; and
- evidence that an open package of liquor is so situated in the motor vehicle that the package could be reached by a person in the motor vehicle while the motor vehicle is in motion is *prima facie* evidence that each person in the motor vehicle consumed liquor in the motor vehicle while the motor vehicle was in motion.
- (3) The presumption described in paragraph (2)(b) does not operate when the open package of liquor is itself in another package that is closed, but the judge may still draw from those facts any inference that is proper in the totality of the evidence.
- (4) Subsection (1) does not apply to passengers in a chartered bus that is being operated under the authority of a valid and subsisting business license issued by a municipality or by the Government of Yukon.
- (5) In this section,

“chartered bus” means a bus or limousine that is hired by or made available to a group of people for the purpose of conveying the group on a specified trip or for a specified time, but does not include a taxi;

“motor vehicle” has the same meaning as in the *Motor Vehicles Act*.

Persons under 19 years of age

- 90** (1) Except as provided by this section **or the regulations**, no person under the age of 19 years shall consume, purchase, or attempt to purchase or otherwise obtain or be in possession of liquor.
- (2) A person under the age of 19 years may in a private residence, **in a food primary premises**, or at a reception if authorized by the terms and conditions of the reception permit, consume liquor provided by or with the consent of a parent, grandparent, or legal guardian while accompanied by that parent, grandparent, or legal guardian.
- (3) No person other than a parent, grandparent, or legal guardian of a person under the age of 19 years shall give or otherwise supply to that person liquor except for medicinal or sacramental purposes.
- (4) **Except as provided by the regulations**, no person under the age of 19 years shall enter, be in, or remain in any **liquor primary premises**.
- (5) No liquor shall be sold or supplied to a person apparently under the age of 19 years unless that person furnishes proof on demand that they are 19 years of age or over.
- (6) If a person cannot or refuses to furnish proof as required by subsection (5), they shall immediately leave a liquor store or licensed premises on being requested to do so.
- (7) *(repealed)*
- (8) Any licensee, their servant or agent, any liquor seller or any inspector or peace officer may request a person who appears to be below the age of 19 years to produce **an identification card specified in the regulations, to establish proof of their age**.
- (9) In any prosecution for the supply of liquor to a person under the age of 19 years, it shall be a defence for the supplier to prove that the person to whom the liquor was supplied **produced an identification card as specified in the regulations which indicates that the person is 19 years of age or more**.

Intoxicated persons in public places

- 91** (1) No person shall be in an intoxicated condition in a liquor store or licensed premises.
- (2) No person shall be in an intoxicated condition in a public place.
- (3) No prosecution shall be taken against any person pursuant to subsection (2) of this section except on the written consent of the Minister or an officer authorized by the Minister in that behalf.

Taking intoxicated persons into custody

- 92** (1) If a peace officer has reasonable and probable grounds to believe and does believe that a person is in an intoxicated condition in a public place, the peace officer may, instead of charging the person under section 91, take the person into custody and deal with the person in accordance with this section.
- (2) A person taken into custody under this section shall not be held in custody for more than **24 hours** after being taken into custody and shall be released from custody at any

time if there are reasonable and probable grounds for the person responsible for their custody to believe that

- (a) the person in custody has recovered sufficient capacity that, if released, they are unlikely to cause injury to themselves or be a danger, nuisance, or disturbance to others; or
 - (b) a person capable of doing so undertakes to take care of the person in custody on their release.
- (3) No action lies against a peace officer or other person for anything done in good faith and without negligence with respect to taking into custody, holding in custody, or releasing a person under this section.
- (4) If a minor is taken into custody under this section, the peace officer who takes them into custody shall, as soon as practicable, make reasonable efforts to notify the minor's parent or an adult person who ordinarily has the care of the minor that the minor is in custody.

Sale to intoxicated persons

93 No person shall sell or supply liquor to a person who is or appears to be intoxicated.

Offer of remuneration prohibited

94 No person selling or offering for sale to or purchasing liquor from the president shall either directly or indirectly

- (a) offer to pay a commission, profit, or remuneration; or
- (b) make any gift,

to a member of the board, to a person appointed pursuant to subsection 10(4) or to anyone on behalf of that person.

ENFORCEMENT

Offence

95 Every person who refuses or neglects to obey an order of the board or who contravenes any provision of this Act, the regulations, or a condition of a licence, commits an offence.

Penalty for bootlegging

95.1 (1) If a person commits an offence under subsection 24(4) or section 74, 75 or 78, they are liable on summary conviction

- (a) for a first offence to a fine of not more than \$25,000 or imprisonment for not more than 12 months, or to both fine and imprisonment; and
- (b) for each subsequent offence to a fine of not more than \$50,000 or imprisonment for not more than 12 months, or to both fine and imprisonment.

- (2) If the person convicted of an offence referred to in subsection (1) is a corporation, it is liable**
 - (a) for a first offence to a fine of not less than \$10,000 and not more than \$50,000; and**
 - (b) for each subsequent offence to a fine of not less than \$10,000 and not more than \$100,000.**

Penalty for providing liquor to a minor

- 95.2 (1) If a person commits an offence under subsection 90(3) or (5), they are liable on summary conviction to a fine of not more than \$10,000 or imprisonment for not more than 12 months, or to both fine and imprisonment.**
- (2) If the person convicted of an offence referred to in subsection (1) is a corporation, it is liable to a fine of not more than \$20,000.**

Penalty for providing liquor to an intoxicated person

- 95.3 (1) If a person commits an offence under section 93, they are liable on summary conviction to a fine of not more than \$10,000 or imprisonment for not more than 12 months, or to both fine and imprisonment.**
- (2) If the person convicted of an offence referred to in subsection (1) is a corporation, it is liable to a fine of not more than \$20,000.**

Penalty for permitting intoxicated person on premises

- 95.4 (1) If a person commits an offence under paragraph 70(1)(a), they are liable on summary conviction to a fine of not more than \$2,000 or imprisonment for not more than 30 days, or to both fine and imprisonment.**
- (2) If the person convicted of an offence referred to in subsection (1) is a corporation, it is liable to a fine of not more than \$5,000.**

General penalty

- 96 (1) If a person commits an offence under this Act or the regulations for which no special penalty has been provided, they are liable on summary conviction**
 - (a) for a first offence to a fine of not more than \$2,000 or imprisonment for not more than six months, or to both fine and imprisonment; and**
 - (b) for each subsequent offence to a fine of not more than \$3,000 or imprisonment for not more than 12 months, or to both fine and imprisonment.**
- (2) If the person convicted of an offence referred to in subsection (1) is a corporation, it is liable**
 - (a) for a first offence to a fine of not more than \$5,000; and**
 - (b) for each subsequent offence to a fine of not more than \$10,000.**

Liability of officers of corporations

- 97** (1) If an offence under this Act or the regulations is committed by a corporation, the officer or employee of the corporation in charge of the premises in which the offence is committed when the offence is committed shall
- (a) *prima facie* be deemed to be a party to the offence; and
 - (b) be personally liable to the penalty prescribed for the offence as the principal offender.
- (2) Nothing in this section relieves the corporation or the person who actually committed the offence from liability therefor.

Description of offence

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

Certificate of analyst

- 99** (1) In any proceedings under this Act a certificate purporting to be signed by an analyst stating that they have performed a chemical analysis on any liquor, or other fluid preparation, compound, or substance and the results thereof, when produced in any court or before any justice, is *prima facie* proof of the facts stated in the certificate without proof of the signature or the official character of the person by whom it purports to be signed.
- (2) Subsection (1) does not apply in any proceedings unless,
- (a) at least seven days notice in writing is given to the accused that it is intended to tender the certificate of an analyst in evidence; or
 - (b) the accused, their agent or counsel have consented to the production in evidence of the certificate of an analyst without that notice.

Inference respecting liquor

- 100** Despite the absence of a certificate under section 99, the justice trying the case may infer that any substance in question is liquor within the meaning of this Act from the fact that a witness describes it as liquor or by a name that is commonly applied to liquor.

Deposition of witness

- 101** In a prosecution under this Act or the regulations for the sale or keeping for sale or other disposal of liquor or the having, keeping, giving, purchasing, or consuming of liquor, it is not necessary that a witness should depose to
- (a) the precise description or quantity of the liquor sold, kept for sale, disposed of, had, kept, given, purchased, or consumed; or
 - (b) the precise consideration, if any received therefor.

Circumstantial evidence

102 On the hearing of a charge of selling or purchasing liquor or of the unlawful having or keeping of liquor contrary to any of the provisions of this Act or the regulations, the court may draw inferences of fact

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

Proof of liquor transactions

- 103(1)** In proving the sale, disposal, gift, purchase, or consumption of liquor, it is not necessary to show in a prosecution that any money actually passed or any liquor was actually consumed if the judge of the Territorial Court is satisfied that a transaction in the nature of a sale, disposal, gift, or purchase actually took place.
- (2) Proof of consumption or intended consumption of liquor on premises on which that consumption is prohibited is evidence that the liquor was sold or given to or purchased by the person consuming or being about to consume or carry away the liquor.
 - (3) Proof of consumption or possession of liquor by a person under the age of 19 years is *prima facie* evidence that the liquor has been consumed or obtained contrary to the provisions of section 90.

Certificate of board or president

104 In a prosecution under this Act or the regulations, the production of a certificate or report signed and sworn or purporting to be signed and sworn by a member of the board or the president is evidence of the facts stated therein and of the authority of the person giving or making the certificate or report without proof of their appointment or signature..

Arrest without warrant

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

Searches

- 106 (1)** A peace officer who has reasonable grounds for believing and does believe that any liquor is being unlawfully kept may search
- (a) a vehicle, boat, or conveyance of any description;
 - (b) any person found in a vehicle, boat, or conveyance of any description; and
 - (c) the land in the vicinity of the vehicle, boat, or conveyance of any description that is being searched.
- (2) If a justice is satisfied by information on oath that there are reasonable grounds for believing that liquor is being unlawfully kept or had or kept or had for unlawful

purposes in any building or premises, the justice may by warrant authorize a peace officer or any person named in the warrant to enter and search the building or premises and each part thereof.

- (3) A peace officer who has reasonable grounds for believing and does believe that a violation of this Act or the regulations has been committed or is about to be committed may at any time without warrant enter any building or premises other than a private dwelling without an order and make any search the peace officer considers fit.
- (4) Any person who refuses to admit or attempts to obstruct the entry of a peace officer for the purpose of this section commits an offence.
- (5) If a peace officer proposes to conduct a search in respect of an offence against this Act or the regulations and the peace officer is not of the same sex as the person to be searched, the peace officer shall engage to perform the search a person who is of the same sex as the person to be searched; the person so engaged may perform the search and for that purpose has all the powers and immunities of a peace officer.

Disposition of liquor after seizure

- 107** (1) A peace officer may immediately seize and remove liquor and the packages containing it when the peace officer finds the liquor on any premises or in any place, and the peace officer believes on reasonable and probable grounds that
- (a) there is no apparent owner of the liquor; or
 - (b) the liquor is being possessed or kept contrary to this Act or the regulations.
- (2) If a peace officer seizes liquor and the packages under subsection (1), the peace officer shall, subject to subsections (3) and (5), retain the seized liquor and packages.
 - (3) If, within 30 days from the date of the seizure of the liquor and packages under subsection (1), no person has filed a notice in writing with the president claiming to be the owner of the liquor and packages, the liquor and packages are forfeited to the Government of the Yukon.
 - (4) If, within the 30 days referred to in subsection (3), a person claims to be the owner of the liquor, the person shall apply to the president within the 30 day period for a hearing and the president shall, within seven days after receiving the request, appoint in writing a time and place for a hearing.
 - (5) At the hearing the person must satisfy the president of the person's claim and the person's right under this Act to possession of the liquor and packages, and if the person fails to do so, the liquor and packages are forfeited to the Government of the Yukon.
 - (6) A person aggrieved by the decision of the president under this section may appeal to the board in accordance with the regulations.

Disposition of liquor on conviction

- 108** (1) If a person has been convicted for an offence under this Act or the regulations, the liquor in respect of which the offence was committed shall, as part of the penalty for the conviction, be forfeited to the Government of the Yukon.
- (2) Despite subsection (1), the justice or judge making the conviction may, subject to subsection (4), declare that the liquor and packages be returned to the convicted

person.

- (3) Subject to subsection (4), if a justice or judge makes a declaration under subsection (2) and the time for appeal has expired, the liquor and packages shall be returned to the convicted person on the person's application to the clerk of the court where the conviction was made.
- (4) If the person described in subsection (3) does not make an application within 30 days of the expiration of the time for appeal or, if an appeal is entered, within 30 days of the final disposition of the appeal, the liquor and packages are forfeited to the Government of the Yukon.

Disposition of liquor on acquittal

- 109** (1) If a person charged with an offence under this Act or the regulations is found not guilty, and the court has not made an order with respect to the liquor and packages seized, the person is entitled to the liquor and the packages
- (a) after the time for filing of an appeal has expired; or
 - (b) if an appeal has been filed, after the final disposition of the appeal.
- (2) If a person is charged with an offence under this Act or the regulations and the charges are withdrawn, the person is entitled to any liquor and packages seized with respect to that charge, after the expiry of the time for relaying a charge for which the liquor or packages are required as evidence.
- (3) If a person described in subsection (1) or (2) does not collect the liquor and packages within 30 days of the date described in subsection (1) or (2), as the case may be, the liquor and packages are forfeited to the Government of the Yukon.

Delivery of forfeited liquor

- 110** All liquor forfeited to the Government of the Yukon under this Act shall be delivered without delay to the corporation.

Report of seizure

- 111** If liquor is seized by a peace officer, the peace officer shall immediately make an inventory thereof and a report in writing of the seizure to the president.

Identification of persons found in searched premises

- 112** If a person is found in or around buildings or premises which are being searched pursuant to section 102, they shall on request of a peace officer report to the peace officer their correct name and address.

Public drinking

- 113** (1) Except in the case of liquor purchased and consumed in accordance with a licence or permit issued pursuant to this Act, no person shall consume liquor in any public place in a municipality or hamlet or band community or unincorporated community in respect of which the Commissioner in Executive Council has made an area enforcement order under this section.
- (2) For the purposes of this section, "public place" does not include
- (a) a residence;
 - (b) a licensed premises;

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- (c) a garden, terrace, or poolside patio of a licensed premises; or
 - (d) any other places that may be prescribed.
- (3) On receiving a resolution which is duly passed by the council of a municipality and which requests that an area enforcement order be made or revoked in respect of the municipality, the Commissioner in Executive Council shall make or revoke the order in accordance with the request.
- (4) The Commissioner in Executive Council may, on receiving a request to do so from the advisory council of a hamlet or the council of an Indian Band, make or revoke an area enforcement order in respect of those public places in the hamlet or band community as the Commissioner in Executive Council considers appropriate.
- (5) The Commissioner in Executive Council may make regulations
- (a) to prescribe an area as an unincorporated community;
 - (b) to establish procedures for the conduct of a plebiscite in which the adults who reside in an unincorporated community may vote on whether an area enforcement order should be made or revoked in respect of the community; and
 - (c) to establish the question or questions to be voted on in the plebiscite.
- (6) The Commissioner in Executive Council may make or revoke an area enforcement order in respect of those public places in an unincorporated community as the Commissioner in Executive Council considers appropriate, if the making or revocation of the order has been approved by the majority of votes cast in a plebiscite by adults who reside in the community.
- (7) An area enforcement order applies to public places in a municipality or hamlet or band community or unincorporated community according to the terms of the order, but every such order made after this subsection comes into force shall state whether the order
- (a) applies to all public places in the municipality or hamlet or band community or unincorporated community;
 - (b) applies to all public places in the municipality or hamlet or band community or unincorporated community except those public places specified in the order; or
 - (c) applies only to those public places in the municipality or hamlet or band community or unincorporated community specified in the order.
- (8) An area enforcement order that applies to a municipality may, in accordance with the resolution referred to in subsection (3), specify conditions under which the consumption of liquor is permitted or prohibited, as the case may be, in public places to which the order applies.
- (9) An area enforcement order that applies to a hamlet or band community or unincorporated community may, if it is considered appropriate by the Commissioner in Executive Council, specify conditions under which the consumption of liquor is permitted or prohibited, as the case may be, in public places to which the order applies.
- (10) No area enforcement order shall be held to be ineffective in whole or in part only because of any difference between the resolution of the municipality or the question voted on in a plebiscite in an unincorporated community and the terms or conditions

of the order.

- (11) In this section,
- “band community” means an area prescribed by the Commissioner in Executive Council and occupied primarily by members of an Indian Band;
 - “hamlet” and “municipality” each have the same meaning as in the *Municipal Act*;
 - “Indian Band” has the same meaning as in the *Indian Act* (Canada);
 - “unincorporated community” means an area prescribed by the Commissioner in Executive Council and not occupied primarily by members of an Indian Band.
- (12) Despite any other provision of this section, an area enforcement order shall continue in force in respect of the place described in the order for a period of not less than two years from the making of the order and if, pursuant to this section, the Commissioner in Executive Council has revoked an area enforcement order no further area enforcement order shall be made in respect of that place for a period of two years from the date of the revocation of the original enforcement order.
- (13) Proof of possession in a public place of a bottle or a can containing liquor which has been opened is *prima facie* evidence of consumption by the person found in possession of liquor in the public place.
- (14) If one of two or more persons with the knowledge and consent of the rest has liquor in their custody or possession, the liquor shall be deemed to be in possession of each and all of them.

Prohibition in the band community of Old Crow

- 114** (1) In this section, “band community” and “Indian Band” each have the same meaning as in section 113.
- (2) The Commissioner in Executive Council may make regulations to establish a system for the prohibition of liquor in the band community of Old Crow if the majority of votes cast in a plebiscite by adults who reside in the band community are in favour of the system.

Plebiscite in band community

- 115** The Commissioner in Executive Council may make regulations
- (a) to establish procedures for the conduct of a plebiscite in which the adults who reside in the band community may vote on a proposed system of prohibitions;
 - (b) to establish the question or questions to be voted on in the plebiscite.

System of prohibition

- 116** The system of prohibition of liquor that may be established for the band community may be a system of prohibitions against any one or more of consumption, possession, purchase, sale, or transport of liquor in the band community.

Exemptions from restriction and prohibition

117 No order or regulation made under sections 114 or 115 affects

- (a) the possession or use of wine for sacramental purposes;
- (b) the transport of liquor in sealed packages through the band community en route from a place outside the community to a place outside the community.

Jurisdiction of the Supreme Court

118 (1) The Supreme Court has jurisdiction to hear and determine an application to review and set aside a decision or order, other than a decision or order of an administrative nature not required by law to be made on a judicial or quasi-judicial basis, made by or in the course of proceedings before the board, on the grounds that the board

- (a) failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
 - (b) erred in law in making its decision or order, whether or not the error appears on the face of the record; or
 - (c) based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.
- (2) Any such application may be made by any party directly affected by the decision or order by filing a notice of the application setting out the grounds within 10 days of the time the decision or order was first communicated to that party by the board or within any further time the Supreme Court or a judge thereof may allow either before or after the expiry of those 10 days.
- (3) The board may at any stage of the proceedings before it refer any question or issue of law, or jurisdiction to the Supreme Court for hearing and determination.
- (4) An application or reference to the Supreme Court made under this section shall be heard and determined without delay and in a summary way.
- (5) When a re-hearing of any matter is ordered by the Supreme Court, the re-hearing may be held by the board composed of the same persons that held the original hearing.
- (6) Except by special leave of the Supreme Court, no application pursuant to this section shall be made later than six months from the date of the decision of the board complained of.
- (7) Except by special leave of the Supreme Court, no application pursuant to this section shall operate as a stay in respect of the decision of the board complained of.

Regulations

119 (1) The Commissioner in Executive Council may make any regulations or orders considered necessary for the purpose of carrying out the purposes and provisions of this Act.

- (2) Without limiting the generality of subsection (1), the Commissioner in Executive Council may make regulations
 - (a) establishing the policies to be carried out by the board in establishing the prices of

- liquor to be sold by the board;
- (b) prescribing fees;
 - (c) respecting the operation of licensed premises **and the terms and conditions to be attached to different classes of licence;**
 - (c.1) respecting identification cards that may be used to establish proof of age for the purposes of this Act;**
 - (d) providing for the issuance of both a liquor primary licence and a food primary licence with respect to all or part of a single premises, and for the operation of the premises or any part thereof under one licence or the other during all or part of the day;
 - (e) **for the purposes of section 47.1, defining “recreational vehicle”, “registered overnight guest” and “RV park”;**
 - (f) **respecting the making or possession of home made beer or home made wine;**
 - (g) **authorizing persons under the age of 19 years employed by the holder of a food primary licence to serve liquor in the licensed premises, notwithstanding subsection 90(1);**
 - (h) **providing for the authorization of persons under the age of 19 years -, notwithstanding subsection 90(4), to be in the licensed premises**
 - (i) **for work purposes, other than to open, mix, pour or serve liquor, or**
 - (ii) **to perform as an entertainer;**
 - (i) respecting the disposal of liquor and packages that have been seized or forfeited under this Act.
- (3) For greater certainty, regulations under this Act may**
- (a) authorize the board or the president to attach terms or conditions to a licence or permit;**
 - (b) require that licensed premises or facilities in licensed premises be approved by the board, the president, or any other person or agency specified in the regulations; or**
 - (c) require that licensed premises be operated in a manner that meets the approval of the board or the president.**