



BRITISH ANTARCTIC TERRITORY

THE LICENSING (SALE OF ALCOHOL) ORDINANCE 2020

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BRITISH ANTARCTIC TERRITORY

Enacted by the Commissioner,
Ben Merrick,
XX XXXX 2020

Ordinance No. 22 of 2020

THE LICENSING (SALE OF ALCOHOL) ORDINANCE 2020

AN ORDINANCE to make provision about the sale and supply of alcoholic beverages, about offences relating to alcoholic beverages and for connected purposes.

Citation and commencement.

1. This Ordinance may be cited as the Licensing (Sale of Alcohol) Ordinance 2020 and shall come into force on XXXXX.

Definitions.

2. For the purposes of this Ordinance and of any licence granted thereunder –

“alcoholic beverages” means beverages consisting of or containing spirits, wine (including made wine), beer, cider (including perry) or any other fermented, distilled or spiritous liquor;

“authorised officer” means an authorised police officer, a member of the Government of the Territory or an officer of the Royal Navy;

“authorised police officer” has the meaning assigned to it by section 2(1) of the Police Powers Ordinance 2020;

“person” includes a body of persons corporate or incorporate;

“place” includes premises;

“premises” means any building or structure (whether movable or immovable) and also includes any public place;

“public place” means any place (including a place in the open air) to which members of the public, or any class thereof, may resort whether as of right or by permission of the occupier;

“regulations” means regulations made by the Commissioner;

“sell” includes offer or expose for sale; and a person is deemed to sell alcoholic beverages if that person makes them available at any place to persons who have paid or given consideration (whether in money or in any other form and to whomsoever given) for admission to that place.

Sale of alcohol licence required for the sale of alcoholic beverages.

3. (1) The Commissioner may grant a licence (a Sale of alcohol licence) to any person to sell alcoholic beverages on any premises specified in the licence.

(2) Save in accordance with a Sale of alcohol licence granted by the Commissioner, but subject to section 10, no person may sell alcoholic beverages at any place within the Territory.

(3) A Sale of alcohol licence granted under subsection (1) shall specify that the alcoholic beverages whose sale it licences on the premises specified therein must be for consumption off those premises.

(4) Without prejudice to the generality of section 26 of the Interpretation and General Provisions Ordinance 2020, a Sale of alcohol licence –

(a) may be general or subject to conditions;

(b) may be limited with respect to the times at which, the circumstances in which and the persons to whom or for whom alcoholic beverages (or any particular kinds of such beverages) may be sold and with respect to the kinds and quantities of such beverages that may be sold;

(c) may be for a specified period of up to five years; and

(d) may be amended or revoked by the Commissioner at any time.

Application for grant or renewal of Sale of alcohol licence.

4. (1) A person may apply –

(a) for the grant of a Sale of alcohol licence; or

(b) for the renewal of a Sale of alcohol licence held by that person.

(2) An application for the grant, or renewal of a Sale of alcohol licence must be made to the Government of the Territory.

(3) Where the application is for renewal of a Sale of alcohol licence, the application must be accompanied by the licence or, if that is not practicable, by a statement of the reasons for the failure to provide the licence.

(4) Subsection (1) is subject to any regulations made pursuant to section 5.

(5) An application for renewal may be made only during the period of two months beginning three months before the time the Sale of alcohol licence would expire if no application for renewal were made.

Form of applications.

5. (1) In relation to any application under section 4, regulations may prescribe –

- (a) its form;
- (b) the manner in which it is to be made or given; and
- (c) the information and documents that must accompany it.

(2) Regulations may also –

- (a) require applications under section 4 to be accompanied by a fee; and
- (b) prescribe the amount of the fee.

False statements made for the purposes of this Ordinance.

6. (1) A person who knowingly or recklessly makes a false statement in or in connection with an application for the grant or renewal of a Sale of alcohol licence is guilty of an offence under this section.

(2) For the purposes of subsection (1) a person is to be treated as making a false statement if that person produces, furnishes, signs or otherwise makes use of a document that contains a false statement.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding £5,000.

Licence holder's duty to produce Sale of alcohol licence.

7. (1) An authorised officer may require the holder of a Sale of alcohol licence to produce that licence for examination.

(2) An authorised officer exercising the power conferred by subsection (1) must, if so requested, produce evidence of authority to exercise that power.

(3) A person who fails, without reasonable excuse, to comply with a requirement under subsection (2) is guilty of an offence.

(4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding £500.

Sale of alcoholic beverages without a Sale of alcohol licence.

8. (1) A person who contravenes section 3(1) is guilty of an offence under this section.

(2) Where alcoholic beverages are sold on any premises in contravention of subsection (1), every occupier of the premises who is proved to have been privy or consenting to the sale is guilty of an offence under this section.

(3) Every person who is guilty of an offence under this section is liable, on conviction, to a fine of £20,000 or to imprisonment for 6 months or to both such a fine and such imprisonment; and the court by which that person is convicted may, on application made by or with the authority of the Attorney General, order the forfeiture to the Crown, for disposal as the Commissioner may direct, of any alcoholic beverages found in the place where the offence was committed and any equipment or utensils used in connection with the commission of the offence.

(4) Despite section 20(2) of the Administration of Justice Ordinance 2020, the Magistrate's Court, on convicting a person of an offence under this section, has jurisdiction to impose any fine to which that person is liable under this section.

(5) Without prejudice to any powers in that behalf conferred by the Police Powers Ordinance 2020 or any other law, any authorised police officer who has reason to suspect that an offence under this section has been, or is being, or is intended to be, committed at any place may –

- (a) enter and search that place;
- (b) search any person at that place;
- (c) search any person who the authorised police officer reasonably believes has recently left that place; and
- (d) seize anything found at or near that place, or on such a person, which the authorised police officer reasonably believes –
 - (i) to be evidence of the commission or intended commission of such an offence; or
 - (ii) may be liable to forfeiture under this section.

(6) Where an authorised police officer seizes anything under subsection (5), it shall be taken before a court to be dealt with according to law; and the provisions of Parts 2 and 3 of the Police Powers Ordinance 2020 shall apply to anything so seized as they apply to things seized under the authority of that Ordinance.

Sale of alcoholic beverages to children.

9. (1) A person (“A”) who sells an alcoholic beverage to an individual aged under 18 (“B”) is guilty of an offence under this section.

(2) Where A is charged with an offence under this section by reason of A’s own conduct, it is a defence that –

(a) A believed that B was aged 18 or over; and

(b) either –

(i) A had taken all reasonable steps to establish B's age;
or

(ii) nobody could reasonably have suspected from B's appearance that B was aged under 18.

(3) For the purposes of subsection (2), A is treated as having taken all reasonable steps to establish B's age if –

(a) A asked B for evidence of age; and

(b) the evidence would have convinced a reasonable person.

(4) Where A is charged with an offence under this section by reason of the act or default of some other person, it is a defence that A exercised all due diligence to avoid committing it.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding £2,000.

Exclusions.

10. Nothing in this Ordinance applies to the sale of alcoholic beverages –

(a) in premises managed by the British Antarctic Survey, for consumption at those premises;

(b) aboard ships or other vessels which are visiting the Territory;
or

(c) at such other place as the Commissioner may by notice prescribe.