

Discussion Paper on Draft Liquor Licence Act 2018

Introduction

The Liquor Licence Act (Cap 106) was enacted on 11th May, 1964. The Act governs the sale or manufacture of intoxicating liquor in the Virgin Islands whether by wholesale or retail by requiring that businesses, persons, or by persons in their immediate employment on their behalf, be duly licensed under the Act. The Magistrate is, for the purposes of the Act, the Licensing Magistrate and has the primary responsibility for the granting of liquor licences. The Act requires the Licensing Magistrate to hold special sittings of the Magistrate's Court on 1st June and 1st December each year, for the purpose of hearing and considering applications for the sale of intoxicating liquor. Since the enactment of the Act, there have been few amendments; the last revision dates back to 1981.

Given the age of the Act, a special committee was appointed to review the Act and make recommendations to Cabinet for changes to Act. The following persons were appointed to the Committee in April 2014:

- (i) The Attorney General (or representative)
- (ii) The Director of Public Prosecutions (or representative)
- (iii) President of the Bar Association (or representative)
- (iv) Commissioner of Police (or representative)
- (v) Legal Draft Person
- (vi) A Magistrate
- (vii) Permanent Secretary, Deputy Governor's Office (or representative)
- (viii) Representative, Governor's Office
- (ix) Financial Secretary (or representative)
- (x) Commissioner of Inland Revenue (or representative)
- (xi) Chief Fire Officer (or representative)
- (xii) Chief Environmental Health Officer (or representative)
- (xiii) Chief Physical Planning Officer (or representative), and
- (xiv) Director of Trade and Consumer Affairs (or representative)
- (xv) BVI Chamber of Commerce and Hotel Association

The Committee met during 2014 and submitted a report to Cabinet in 2015. Cabinet noted and accepted the recommendations in the Report of Committee and instructed the Attorney General's Chambers to prepare the draft Bill for review and further instructions.

Before returning the Draft Bill to Cabinet, input from a wider group of patrons of the Act is needed. Therefore, we submit this discussion paper for your comments. Your comments and submissions of the matters in this discussion paper are important.

In submitting your feedback, please indicate the relevant section, and/or heading, that appears above the matter on which you are commenting. You may find it useful to read the Discussion Paper in conjunction with the current legislation. Therefore, electronic copies of the Draft Bill and the current Act are attached.

How to respond:

Comments may be emailed to sherbert@gov.vg or delivered to the Permanent Secretary, Office of the Deputy Governor, Fleming Street (upstairs Royal Shop). Please ensure that your comments are submitted on or before **26th February, 2018**.

Following are some of the major changes proposed in the Act along with the comparison of the current provision.

| Proposed Legislation | Current Legislation |
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| Part I Preliminary | |
| <p>Section 2 also provides definitions of the principal words used throughout the Act. New definitions added are the following words: "Appeals Tribunal," "bar," "Board," "licensed premises," "Licensing days," "members club," "Minister," "nightclub," "person," "Register," "renewal of licence," and "restaurant."</p> | <p>Section 2 provides definitions of the principal words used throughout the Act.</p> |
| Part II Licensing Board | |
| <p>Section 4 provides for the establishment of a Licensing Board. The Board, among other things, will receive and decide on applications for liquor licences or renewal of liquor licences. See also Schedule 1.</p> | <p>Every person applying for a licence shall appear before the Licensing Magistrate on a licensing day who grants the licence if he/she considers that it should be granted. Section 16.</p> |
| Part III Inspectors | |
| <p>Sections 7 and 8 make provision for the Minister to designate suitable public officers to act as inspectors for the purpose of inspecting premises where a notice of application is made for a liquor licence or where liquor is sold. The idea is to have a team of trained inspectors to conduct the inspections, guided by the requirements of the Act.</p> | <p>Section 14. Inspection by police officer.</p> |

Part IV
Licences Generally

Section 12. Two new categories have been added: small dealers retail licence and events licence. The small dealer's retail licence takes into consideration the disparity in the volume of alcohol sold by some retail shops. It entitles the holder to sell liquor in quantities not exceeding two gallons.

The events' licence provides for special events for one or more days.

The section also proposes that two new and separate categories, night club licence and members club licence, will replace the club licence in the current legislation. The new categories provide further clarity to the term club.

The Draft Bill proposes to increase fees to be in line with fees in the region. The proposed fees as set out in Schedule 4 as follows:

Section 4. Categories of licences are retail licence; wholesale licence; club licence; hotel licence; restaurant or bar licence, small dealer's licence and bar licence.

| Type of Licence | Proposed Fee | Current Fee |
|---|----------------------------|-------------------------|
| Small Dealer Retail Licence | \$ 600.00 | n/a |
| Retail Licence | \$1,000.00 | \$ 150.00 |
| Wholesale Licence | \$2,500.00 | \$ 600.00 |
| Night Club Licence | \$1,000.00 | \$ 500.00 |
| Hotels (with less than 10 rooms) | \$ 250.00 | \$ 100.00 |
| Hotels (with 10 to 25 rooms) | \$ 500.00 | \$ 150.00 |
| Hotels (with 26 to 50 rooms) | \$ 750.00 | \$ 200.00 |
| Hotels (with more than 50 rooms) | \$1,000.00 | \$ 300.00 |
| Hotels (with stock beverages) | Additional fee of \$50.00 | |
| Hotels (Bars under the proprietorship of the Hotel) | Additional fee of \$150.00 | |
| Restaurant Licence | \$ 500.00 | \$ 300.00 |
| Bar Licence | \$ 300.00 | \$ 50.00 (in Road Town) |
| Beer Licence | \$ 150.00 | \$ 35.00 (outside RT) |

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| Special Events Licence | \$ 50.00 (3 or more days @ \$25.00 per day) | |
| Stills Licence | \$ 250.00 | |
| PART V PROCEDURE FOR OBTAINING LICENCES | | |
| Section 18 proposes an increase in the number of licensing days. This will eliminate the need for temporary liquor licences to be issued by the Governor. | | Section 12. Only two licensing days per year on 1 st June and 1 st December. Section 25C - Governor's discretionary powers |
| The intent of Section 21 is to ensure the health and safety of patrons of businesses who sell alcohol. The applicant will be required to secure the requisite planning permission --this addresses issues such as location, building soundness, parking, etc.; fire safety certificates which would provide evidence of fire safety measures in place such as marked and lighted exits, multiple and easy accessible ingress and egress and fire extinguishers. In the case of night clubs, additional security measures would have to be in place before the issuance of such licences: engagement of security officers; proper and adequate lighting inside and outside; installation of proper security cameras, etc. Other information may also be requested by the Board. | | Sections 15 and 20. |
| Section 24 proposes that the licence period be extended to one year from the date of issue. | | Section 18. Except for wholesale licences, the duration for licences is a period not exceeding six months. Wholesale licences are up to twelve months. |
| PART VII REGULATION OF LICENSED PREMISES | | |
| Section 38(2) recommends that electronic signs be prohibited in residential areas. | | n/a |

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| PART XIII ADMINISTRATIVE PENALTIES | |
| Section 53(1) would allow the Board to impose administrative penalties on persons who fail to comply with the requirements of the new Act. See Schedule 3 for the list of penalties. | Penalties are imposed by the Court on summary conviction. |
| Section 71 recommends that CAP 106 be repealed. The recommendation is made because of the number of amendments proposed. | |
| PART XIV APPEALS PROCESS | |
| Sections 59, 60, 61, 62 and 63. The Draft Bill recommends an Appeal Tribunal to perform the function of hearing appeals that may arise from decisions of the Board. The new Act would not prevent a person from appealing a decision of the Board before the High Court. See also Schedule 2. | Sections 26 and 27. Appeals are made to the High Court. |