

**LEGISLATIVE ASSEMBLY OF THE
NORTHWEST TERRITORIES
9TH ASSEMBLY, 10TH SESSION**

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COUNCIL OF THE NORTHWEST TERRITORIES
1983 FIRST SESSION

BILL - 83(1)
AN ORDINANCE RESPECTING LIQUOR

Statement of Purpose

The purpose of this Bill is to regulate and control the purchase, sale, use and consumption of liquor in the Northwest Territories.

DISPOSITION

Date of Notice	1st Reading	2nd Reading	To Committee	Chairman	Reported	3rd Reading	Date of Assent

BILL - 83(1)

AN ORDINANCE RESPECTING LIQUOR

The Commissioner of the Northwest Territories, by and with the advice and consent of the Council of the said Territories, enacts as follows:

SHORT TITLE

Short title 1. This Ordinance may be cited as the Liquor Ordinance.

INTERPRETATION

Definitions 2.(1) In this Ordinance,
"Agent" (1) "Agent" means a person appointed by the Commissioner pursuant to section 49 to sell liquor;

"application" (2) "application" means an application for the grant of a licence;

"beer" (3) "beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt, hops or any similar products in drinkable water;

"Board" (4) "Board" means the Liquor Licensing Board established by section 4;

"club" (5) "club" means a social, sporting, community, benevolent or fraternal order or society, or any branch thereof, incorporated by an Ordinance or under a federal or provincial statute;

"inspector" (6) "inspector" means a person appointed pursuant to section 70;

"interdicted person" (7) "interdicted person" means a person interdicted pursuant to section 97;

"licence" (8) "licence" means a subsisting licence granted by the Board pursuant to section 10;

- "licensed premises" (9) "licensed premises" means the premises or place in respect of which a licence is issued;
- "licensee" (10) "licensee" means the person named as licensee in a licence;
- "liquor" (11) "liquor" includes
 (i) any alcoholic, spirituous, vinous, fermented, malt or other intoxicating liquid or combination of liquids,
 (ii) any mixed liquid, a part of which is alcoholic, spirituous, vinous, fermented, malt or otherwise intoxicating, and
 (iii) beer and wine;
- "liquor store" (12) "liquor store" means
 (i) a liquor store established under this Ordinance, or
 (ii) that part of the premises operated by an Agent that is used by him for the sale of liquor;
- "municipality" (13) "municipality" means a city, town, village or hamlet;
- "package" (14) "package" means a bottle, vessel or receptacle containing liquor or a container wholly or partly enclosing a bottle, vessel or receptacle used for holding liquor;
- "peace officer" (15) "peace officer" means a peace officer as defined in the Criminal Code (Canada);
- "permit" (16) "permit" means a wine permit, imported liquor permit or a special permit referred to in section 11;

- "permittee" (17) "permittee" means the person named in a permit;
- "plebiscite" (18) "plebiscite" means a local option plebiscite held pursuant to this Ordinance;
- "prescribed" (19) "prescribed" means prescribed by regulation;
- "private recreational facility" (20) "private recreational facility" includes a facility that is operated for profit-making purposes;
- "public place" (21) "public place" includes
 (i) a place or building to which the public has access,
 (ii) a place of public resort, and
 (iii) any vehicle in a public place, but does not include a location off a highway that is reasonably remote from any settlement and that is used for picnicking, sport fishing or other outdoor recreational activity
 but does not include any premises licensed pursuant to this Ordinance;
- "qualified voter" (22) "qualified voter" means a person who
 (i) is a Canadian citizen,
 (ii) has attained the age of 19 years, and
 (iii) has been ordinarily resident in the settlement or area in which a plebiscite is to be held for a period of not less than one year immediately preceding the date set for voting;
- "residence" (23) "residence" means
 (i) 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,

- (ii) 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,
- (iii) a camper unit, trailer or tent that is actually and bona fide occupied and used by the owner, lessee or tenant as a private dwelling together with the lands appurtenant thereto that in fact are normally and reasonably used as part of the living accommodation, or
- (iv) a vessel that is actually and bona fide used by the owner, lessee or tenant as a private dwelling;

"sale"

- (24) "sale" in relation to liquor includes exchange, barter or traffic and the selling, supplying or distribution, by any means, of liquor
- (i) by any partnership or by any club whether incorporated or unincorporated, or
 - (ii) to any member of such partnership or club;

"spirits"

- (25) "spirits" means any beverage containing alcohol obtained by distillation and includes brandy, rum, whiskey, gin and vodka or any other alcoholic solution;

"vehicle"

- (26) "vehicle" means any means of transportation by land, water or air and includes any motor car, automobile, truck, snowmobile, tractor, aeroplane, vessel, boat, launch, canoe or any other thing used in any way for such transportation;

"vendor"

- (27) "vendor" means a person designated pursuant to section 50;

"wine"

- (28) "wine" means any liquor obtained by the fermentation of the natural sugar content of fruit, including grapes, apples, or berries, or any other agricultural product containing sugar, including honey and milk.

alcohol
content

- (2) For the purpose of paragraph (1)(11), any liquid that contains more than one per cent by volume at 15.55 degrees celsius of absolute alcohol shall be deemed to be intoxicating.

PART I

Definition

3. In this Part, "Executive Member" means the member of the Executive Committee of the Government of the Northwest Territories who is assigned by the Commissioner the responsibility for the Liquor Licensing Board.

LIQUOR LICENSING BOARD

Liquor
Licensing
Board

4.(1) There shall be a Board known as the the Liquor Licensing Board consisting of not more than twelve members appointed by the Executive Member.

Term

(2) Board members shall hold office during pleasure for a term of two years.

Chairperson

(3) The Executive Member shall designate a member of the Board to be Chairperson.

Quorum

(4) Three members of the Board constitute a quorum.

Remuneration

(5) The members of the Board shall be paid such remuneration and expenses as the Executive Member directs.

Executive
Secretary

(6) The Executive Member may designate any person to be Executive Secretary to the Board and may specify the duties of such Executive Secretary.

Dealing in
liquor pro-
hibited

5.(1) A Board member shall not, directly or indirectly, have an interest in, or be engaged in any business or undertaking dealing in liquor either:

- (a) as owner, part owner, partner, member of a syndicate, shareholder, agent or employee; or
- (b) for his own benefit or in any capacity for some other person.

Acceptance of
commission,
etc., prohib-
ited

(2) No member of the Board and no member of the Public Service of the Northwest Territories shall solicit or receive directly or indirectly any commission, remuneration or gift of any kind from a person or corporation that has sold or is selling liquor, or is offering liquor for sale, in the Northwest Territories pursuant to this Ordinance.

Board members
not liable

6. No proceedings lie against any member of the Board for anything done or omitted to be done in or arising out of the performance of his duties under this Ordinance.

Board subject
to guidelines
of Executive
Member

7.(1) Notwithstanding any other provision of this Ordinance the Board, in fulfilling its responsibilities pursuant to this Ordinance, shall act in accordance with policy guidelines set out by the Executive Member from time to time.

Board's duties
and powers

- (2) Subject to this Ordinance, the Board:
- (a) shall control the conduct of licensees, the management and equipment of licensed premises and the conditions under which liquor may be sold or consumed therein;
 - (b) may grant, renew and transfer licences;
 - (c) may, after a hearing, cancel or suspend licences; and
 - (d) generally may advise the Executive Member on all matters of policy, legislation and administration relating to the sale, distribution and consumption of liquor.

Public
meetings

(3) Notwithstanding any other provision of this Ordinance, the Board, upon application by a band, settlement or municipal council, may prohibit the sale of liquor by any licensee in a settlement or municipality on the day or days, or part thereof, on which a public meeting is to be held in the settlement or municipality.

Oaths

(4) Every member of the Board and every official authorized by the Board to issue licences under this Ordinance may administer any oath and take and receive any affidavit or declaration required under this Ordinance or the regulations.

Board
regulations

8. The Board may, subject to this Ordinance, make regulations:

- (a) prescribing the rights, privileges, conditions and obligations attaching to licences;
- (b) respecting the operation of licensed premises;
- (c) respecting the conditions and qualifications necessary for the obtaining of licences, and renewals and transfers thereof;
- (d) determining the numbers and classes of licences that may be granted;
- (e) prescribing the days and hours when licensed premises shall be kept open for the sale of liquor;

- (f) prescribing the equipment and the minimum standard of design and decor of licensed premises;
- (g) prescribing offences, the commission of which would disqualify a person from holding a licence;
- (h) prescribing the duties and powers of inspectors;
- (i) providing for the adequate inspection of licensed premises;
- (j) governing the quantity and use of liquor purchased under special occasion licences;
- (k) controlling or prohibiting the advertising of liquor by means of signs or in newspapers, magazines, radio, television or other means of public communication;
- (l) controlling and regulating the business activities of agents or representatives of liquor manufacturers or importers;
- (m) fixing the fees that are payable for licences and renewals thereof;
- (n) fixing the fees that are payable for transfers of licences;
- (o) prescribing the procedure and forms required in the exercise of its powers pursuant to subsection 7(2);
- (p) prescribing the maximum prices for beer, wine and liquor that licensed premises may charge; and
- (q) respecting any other matter within the powers of the Board that is necessary or advisable to carry out effectively the intent and purpose of this Ordinance.

Sale on
Remembrance
Day

9. Notwithstanding anything in this Ordinance or the regulations, a branch of the Royal Canadian Legion that possesses a licence to sell liquor may, after twelve o'clock noon on any Remembrance Day that falls on a Sunday, sell or give liquor in its licensed premises and permit the consumption of liquor therein by a member or bona fide guest.

LICENCES AND PERMITS

Classes of
licences

10.(1) Subject to this Ordinance, the Board may, in its absolute discretion, upon receipt of an application therefor accompanied by the prescribed fee, by order grant to any person in respect of specified premises, a licence of any of the following classes:

- (a) tavern licence for the sale and consumption of beer;
- (b) cocktail lounge licence for the sale and consumption of liquor;
- (c) dining room licence for the sale and consumption of beer and wine in a public dining room;
- (d) dining lounge licence for the sale and consumption of liquor in a public dining lounge;
- (e) club licence for the sale of liquor by the licensee for consumption by members and guests;
- (f) canteen licence for the sale and consumption of liquor in military and quasi-military messes and in the canteen facilities of fire halls;
- (g) guest room licence for the sale of liquor by the licensee for consumption by a bona fide registered guest of a tourist establishment;
- (h) special licence for the sale and consumption of liquor or beer only to a commercial company operating in an isolated area;
- (i) aircraft and ship licence for the sale and consumption of liquor to passengers while in transit; and
- (j) private recreational facility licence for the sale of liquor by the licensee for consumption by members and guests.

Special occasion licence

(2) Subject to this Ordinance and the regulations, the Board or a person or persons designated by the Executive Member may grant to any person or organization upon receipt of an application therefor accompanied by the prescribed fee, a special occasion licence for the sale and consumption of liquor at social functions.

Authority of licence

(3) A licence authorizes the licensee to purchase, sell, possess and use liquor subject to this Ordinance, the regulations and the terms and conditions set out in the licence.

Classes of permits

11.(1) The Commissioner may upon application therefor accompanied by the prescribed fee grant permits of the following classes:

- (a) imported liquor permits to authorize the possession and use of liquor imported into the Territories pursuant to section 48 of the Northwest Territories Act;
- (b) wine permits to authorize the making of wine; and

(c) special permits to authorize the purchase and use of liquor for a medicinal, scientific or other special purpose except for a sacramental purpose.

Delegation

(2) Where the Commissioner deems it advisable he may delegate any powers under this section to the Board or to any other person and the Board or delegated person has and may exercise all of the powers available to the Commissioner by virtue of this section.

What permit authorizes

(3) A permit granted pursuant to subsection (1) authorizes the permittee to purchase, possess and use liquor subject to this Ordinance, the regulations and the terms and conditions set out in the permit.

Cancellation of permit

(4) The Commissioner, upon notice to the permit holder, may in his absolute discretion, cancel any permit issued under this section and his decision shall be final.

Persons not eligible for permit

12. No permit issued pursuant to section 11 shall be granted to a person who is not eligible to purchase liquor at a liquor store.

Expiration of licence and permit

13.(1) Subject to subsection (2), every licence or permit expires on the 31st day of March next following the day on which the licence comes into force.

Idem

(2) A licence or permit that contains an express provision respecting its expiry shall expire in accordance with that provision.

Suspension of licence

14.(1) The Board, in its discretion, may suspend the operation of any licence issued pursuant to this Ordinance, pending a Board hearing.

Not to exceed 48 hours

(2) No suspension issued pursuant to this section can exceed 48 hours in duration.

Form of proceedings

15.(1) Proceedings before the Board other than proceedings for the suspension or cancellation of a licence shall be instituted by application and the Board may make such orders and decisions as it deems proper in the exercise of its powers.

Orders, notices
etc.

(2) Written notices, orders or directions of the Board may be signed by the Chairperson or other member of the Board or any person authorized to do so by the Chairperson.

Review of
order

(3) Where in the opinion of the Board any of the relevant circumstances relating to any proceedings heard by it have altered or new evidence in connection therewith has become available, the Board may review any order or decision made during such proceedings and may amend, revoke or affirm such order or decision.

Evidence

16. For the purpose of any hearing or investigation, the Board has, as regards the attendance, swearing and examination of witnesses and the production and inspection of documents, records and things all such powers, rights and privileges as are vested in the Supreme Court or a judge thereof for the trial of civil actions.

Investigation
by Board

17.(1) The Board may make such investigation as it deems expedient for the due exercise of its powers into or respecting

- (a) the affairs or conduct of any licensee or of any of his agents or employees;
- (b) any licence at any time granted under this or any previous Ordinance relating to the sale and consumption of liquor, or any premises in connection therewith; or
- (c) any matter pertaining to the sale or handling of or transactions in liquor.

Idem

(2) Where an investigation is or is about to be undertaken under this section, the Board may, by order,

- (a) authorize an inspector to seize and take possession of any documents, records or other property belonging to, in the possession or under the control of, any person that the Board considers may be relevant to the investigation; and
- (b) appoint an accountant or other expert to examine documents, records or other property or any matters that the Board considers may be relevant to the investigation.

Special audit

18.(1) It is a condition of every licence issued pursuant to this Ordinance that the Board may at any time authorize and appoint a representative of the Board to enter upon the premises where books, accounts or records of or pertaining to the sale of liquor in any licensed premises are kept and inspect, study, audit, or take extracts from such books, accounts or records.

Seize books

(2) Where the Board has reasonable grounds to suspect that an offence under this Ordinance has been committed, it may seize any books, accounts or records from such premises.

Offence

(3) Every person having any book, account or record in his possession or under his control pertaining to the sale of liquor who refuses or fails to produce it or to comply with a request made pursuant to an authorization of the Board given under subsection (1) or (2) is guilty of an offence.

Validity of orders

19. No order, direction, decision or other document of the Board is valid or binding unless it is issued in the name of the Board.

Orders final

20.(1) Subject to this section every order of the Board is final.

Appeal

(2) A licensee that is a party to a decision or order of the Board may appeal the decision or order to the Supreme Court on the ground that the Board has erred in law or exceeded its jurisdiction.

Appeal by stated case

(3) The Board or the Executive Member may state a case to the Supreme Court in the manner provided for from time to time in the Criminal Code (Canada).

Persons not entitled to licences

21.(1) No licence may be granted, renewed or transferred under this Ordinance to or in respect of any person who,

(a) in the opinion of the Board, is not a fit and proper person or is not the true owner of the business carried on at the premises for which the licence is sought;

- b) has been convicted of any of the offences against such of the laws of Canada or of the Northwest Territories as the regulations prescribe;
- (c) is disqualified under this Ordinance or the regulations or has not complied with the requirements thereof;
- (d) if an incorporated company does not comply with this Ordinance or the regulations; or
- (e) if a club does not comply with this Ordinance or the regulations.

Offence

(2) Every person who applies for the grant, renewal or transfer of a licence and who in his application knowingly fails to make full disclosure to the Board regarding any of the provisions of this section or subsection 22(1) is guilty of an offence.

Where issue of licence prohibited

22.(1) No licence may be granted, renewed or transferred under this Ordinance to or in respect of

- (a) a person who is under agreement with any other person to sell the liquor of any manufacturer;
- (b) a manufacturer of liquor or his agent, or a person who is so associated, financially interested or connected with him as to be likely to promote the sale of the liquor of such manufacturer;
- (c) a person who, by reason of any agreement, arrangement, concession, obligation or understanding, oral or written or direct or indirect, with any other person promotes the sale of the liquor of any manufacturer; or
- (d) any premises in which a manufacturer of liquor has an interest, whether freehold or leasehold, or by way of mortgage, lien or charge upon any chattel property therein, whether or not such interest is direct or indirect or contingent or by way of suretyship or guarantee.

Prohibited action or proceeding

(2) No action or other proceeding shall be brought or commenced in any court in the Northwest Territories in respect of any agreement, arrangement, concession, obligation, understanding or interest referred to in subsection (1).

Directors to
produce
particulars

23. The directors of an incorporated company who apply for the grant, renewal or transfer of a licence or permit shall, at the time of making the application or at any other time during the term of the licence, when ordered to do so by the Board, produce such particulars of the officers and shareholders of the company as the Board may require.

No vested
right

24. No person shall enjoy a vested right in the continuance of a licence or permit, and upon the grant, renewal, transfer, cancellation or suspension thereof, the value of the licence or permit shall not be capitalized but becomes the property of the Government of the Territories.

Public
hearings

25.(1) Unless the Board is satisfied that a public hearing is not required, a public hearing shall be held in connection with every application, proceeding or other matter within the jurisdiction of the Board.

Review by
Board

(2) After a public hearing has been held pursuant to subsection (1) or a meeting has been held, the Board shall review and determine the applications or other matters before the Board at such public hearing or meeting.

Filing of
application

26. Every application shall be in the prescribed form and shall be filed with the Board at or before the public hearing of the Board at which the application is to be heard.

Preliminary
application

27. No application shall be heard at any public hearing until a preliminary application in the prescribed form has been filed with the Board.

Publication
of notice

28. After a preliminary application has been approved pursuant to section 27, the applicant shall, unless exempted by the Board, publish a notice of the application in the prescribed form twice

(a) in a newspaper published and having general circulation in the municipality or community in which the premises for which the licence is sought are situated, or

(b) where no newspaper is published in the municipality or community in which such premises are situated, in a newspaper having a general circulation in such municipality or community,

and such publications shall not be less than six days apart and the second of such publications shall be not less than twenty-one days before the public hearing of the Board at which the application is to be heard.

Personal application

29. An applicant for a licence may be represented before the Board by his solicitor or agent, but the Board may require the applicant to appear in person, and where the applicant is a corporation it may be represented by a director, corporation official or manager duly certified as such to the satisfaction of the Board.

Renewals

30. Unless otherwise directed by the Board, it is not necessary for an applicant for the renewal of a licence to publish notice of his application or to appear in person before the Board.

Objections

31.(1) Any person resident in the community where the premises, concerning which the application is made, are situated may object to an application, and the grounds of objection shall be filed in writing with the Board at least ten days before the public hearing at which the application is to be heard.

Applicant to be notified

(2) Upon receipt of an objection to an application, the Board shall forthwith notify the applicant thereof.

CANCELLATION AND SUSPENSION OF LICENCES

Proceedings for cancellation

32.(1) In any proceedings before the Board for the cancellation or suspension of a licence the Board shall by notice in writing invite the licensee to show cause to the Board why the licence should not be cancelled or suspended and, in the event of the failure of the licensee to show cause, the Board shall take such action as the circumstances require.

Notice to licensee

(2) The notice required by subsection (1) shall be served personally on or sent by registered mail to the licensee at his last known address at such time as in the opinion of the Board is appropriate under the circumstances before the date of the meeting or public hearing called in respect of such proceedings but in no case shall the notice served or sent be less than seven days prior to the meeting or hearing.

Notice to specify

(3) The notice required by subsection (1) shall specify whether the proceedings before the Board are for the purposes of considering the cancellation of the licence in question or for the purposes of considering the suspension of the licence in question, and the proceedings before the Board shall be conducted accordingly.

Substance of allegation

(4) The notice referred to in subsection (1) shall contain the substance of the allegations made against the licensee.

Proceedings before Board

33.(1) In any proceedings before the Board for the cancellation of a licence, the Board may after consideration, dismiss the matter or make such order as it deems proper, and in such order may

- (a) cancel the licence;
- (b) disqualify any person from holding a licence;
- (c) disqualify any premises from being eligible as licensed premises;
- (d) suspend the licence for a period not exceeding twelve months;
- (e) impose such conditions upon the licensee as the circumstances require; and
- (f) impose a fine upon the licence holder of not more than five thousand dollars, and suspend the licence until the fine is paid in full.

Proceedings for suspension

(2) In any proceedings before the Board for the suspension of a licence, the Board may, after due consideration, dismiss the matter or may make such order as it deems proper and in such order may:

- (a) suspend the licence for a period not exceeding twelve months;
- (b) impose such conditions upon the licensee as the circumstances require; and
- (c) impose a fine upon the licence holder of not more than five thousand dollars and suspend the licence until the fine is paid in full.

Notice to licensee

(3) Notice of any order made under subsection (1) or (2) shall be given in writing and served personally on or sent by registered mail to the licensee at his last known address and the order takes effect on the day and hour specified by the Board in the notice.

When licence to be cancelled

34. The Board shall cancel a licence:
- (a) if the licence holder persistently fails to comply with this Ordinance or the regulations;
 - (b) if the licence holder persistently fails to carry out the orders of the Board or the Fire Marshal of the Northwest Territories;
 - (c) if the licensee persistently fails to keep the licensed premises in a clean and sanitary condition in accordance with the Public Health Ordinance or the regulations made thereunder;
 - (d) if the licensee persistently fails to comply with any municipal by-law affecting the licensed premises;
 - (e) if any of the circumstances exist that under subsection 21(1) or 22(1) would prevent the granting of a licence; or
 - (f) if the licensee dies or becomes bankrupt or if a mortgagee enters into possession of the licensed premises, but the Board may issue a temporary licence to a trustee or a mortgagee in possession for not more than six months in order that he may settle the estate or dispose of the licensed premises.

Delivery of forfeited liquor

35. Where a licensee receives notice of the cancellation or suspension of his licence he shall, if so ordered in the notice, forthwith deliver to the Executive Member, or a person designated by the Executive Member, all liquor then in his possession or under his control.

Board shall purchase liquor

36.(1) Where liquor delivered pursuant to section 35 is suitable for resale by the Territories and has been lawfully acquired by the licensee, the Board shall direct that the costs of that liquor be refunded to the licensee.

Liquor to be destroyed

(2) Any liquor delivered pursuant to section 35 that, in the opinion of the Executive Member is not suitable for resale, shall be forfeited to the Territories to be destroyed or otherwise disposed of under the direction of the Board.

Transfer of
licences

37.(1) No licence shall be transferred unless application therefor in the form prescribed is filed with the Executive Member at or before the meeting or public hearing of the Board at which the application for such transfer is to be heard and the Board is not under any circumstances bound to consent to such transfer.

Transfer
fee

(2) Where the Board consents to the transfer of a licence, the transferor shall pay to the Executive Member at the time of such consent the prescribed fee and the transfer shall not be deemed to be final until such fee has been paid in full.

Issue or
transfer of
shares of
corporation

38. The Board may require the directors of an incorporated company that is a licensee to present to the Board for approval any substantial issue or transfer of shares of its capital stock, and where in the opinion of the Board a substantial interest in such incorporated company is transferred, the provisions of section 37 apply mutatis mutandis.

LOCAL OPTION

Executive
Member to
supervise

39. All plebiscites held pursuant to this Ordinance shall be held under the auspices and at the direction of the Executive Member.

Duties of
Executive
Member

40.(1) Where a plebiscite is held pursuant to this Ordinance, the Executive Member shall
(a) appoint a returning officer, and
(b) delimit the area in which the plebiscite is to be held.

Power of
returning
officer

(2) A returning officer appointed pursuant to this section has all of the powers and may exercise all of the functions of a returning officer appointed under the Elections Act (Canada).

Time of
Plebiscite

(3) Where a plebiscite is held, the date for holding the plebiscite shall be on a day fixed by the Executive Member.

Plebiscite
concerning
licences

41.(1) Where at least twenty per cent of the persons resident in a settlement, municipality or area petition the Executive Member to close licensed premises of a certain class or classes, the Executive Member may order that a plebiscite be held to determine the wishes of the qualified voters of the settlement, municipality or area.

No licence without plebiscite (2) Subject to this section, the Board may not grant any licence in any settlement, municipality or area, without first, by means of a plebiscite, obtaining the approval of at least sixty per cent of the votes cast by the qualified voters in that settlement, municipality or area.

Exception (3) Where a licence or licences have been granted in any settlement, municipality or area, the Board may grant other licences that are of the same class, or of a class with less privileges, in accordance with this Ordinance, without a plebiscite.

Prohibition 42.(1) Where a plebiscite is held to vote on a question of whether or not a licence may be granted and the vote is in the negative, no further plebiscite shall be held in the settlement, municipality or area to ask a question that is similar to such question within three years of such plebiscite.

Protection for existing stores and licences (2) Where licences of any class, other than those set out in section 45, are in existence in any settlement, municipality or area for less than four years, no question shall be asked in a plebiscite that may have the effect of cancelling the licences existing in such settlement, municipality or area.

Cancellation of licences 43. Where a licence is in force in a settlement, municipality, or area in which a plebiscite has been held pursuant to subsection 41(1) and a majority of votes cast are against that type of licence, the Board shall cancel all licences of that type, or of a type that grants more privileges, in the settlement, municipality or area.

Where sixty per cent in favour 44. Where at a plebiscite at least sixty per cent of the votes cast in the settlement, municipality or area are in favour of issuing a particular type of licence, the Board may grant such licence upon receipt of an application made under this Ordinance.

Granting of licence without a plebiscite 45. Notwithstanding sections 39 to 44, the Board may, if it deems fit, grant a licence, without a plebiscite, to an applicant for any of the following classes of licences:
(a) canteen licences;
(b) guest room licences;
(c) special licences;
(d) special occasion licences;
(e) ship and aircraft licences; or
(f) private recreational facility licences.

Plebiscite

46.(1) Where at least twenty persons resident in a settlement, municipality or area, petition the Executive Member to hold a plebiscite to determine whether the consumption, possession, purchase, sale or transport of liquor ought to be restricted or prohibited in the settlement, municipality or area, the Executive Member may order that a plebiscite be held to determine the wishes of the qualified voters of the settlement, municipality or area.

Possible systems that may be chosen by plebiscite

(2) Without limiting the generality of subsection (1), in addition to any other system or model that subject to the approval of the Executive Member, the residents may choose to vote on, the following systems may be voted on by a plebiscite:

- (a) unrestricted system in which the community is subject only to the general liquor laws of the Territories;
- (b) restricted hours system in which, in addition to the general liquor laws, the hours of operation of licensed premises would be limited;
- (c) restricted quantities system in which, in addition to the general liquor laws, the quantity of liquor that a person may purchase is limited;
- (d) committee system, in which a locally elected alcohol education committee decides
 - (i) which people in the settlement, municipality or area will be allowed to purchase alcohol,
 - (ii) what amounts of alcohol may be purchased by any person, and
 - (iii) which people will not be allowed to purchase alcohol in the settlement, municipality or area; and
- (e) prohibition system that prohibits the consumption, possession, purchase, sale or transport of liquor within the settlement, municipality or area.

Exception

(3) No plebiscite shall be held under subsection (1) in any settlement, municipality or area where a licence of any of the following classes is in force:

- (a) tavern licence for the sale and consumption of beer;
- (b) cocktail lounge licence for the sale and consumption of liquor;
- (c) dining room licence for the sale and consumption of beer and wine in a public dining room; or

(d) dining lounge licence for the sale and consumption of liquor in a public dining lounge.

Restrictions

(4) A petition presented to the Executive Member pursuant to subsection (1) shall indicate the nature of the restriction or prohibition upon which it is desired to ascertain the wishes of the qualified voters at a plebiscite.

Questions

(5) The questions on a ballot used in a plebiscite under subsection (1) shall reflect the content of the petition and may include such other questions as the Executive Member considers desirable.

Regulated, restricted or prohibited area

(6) Where at a plebiscite under subsection (1) at least sixty per cent of the votes cast by the qualified voters of the settlement, municipality or area indicate that the possession, purchase, sale or transport of liquor ought to be restricted or prohibited in the settlement, municipality or area, the Executive Member shall declare the settlement, municipality or area a restricted or prohibited area.

Regulations

(7) When a settlement, municipality or area has been declared a restricted or prohibited area, the Commissioner, upon the recommendation of the Executive Member, shall make regulations to carry into effect the result of the plebiscite and may prescribe the penalties that may be imposed for violations of the regulations.

LIQUOR STORES

Liquor stores

47. Liquor stores may be established by the Executive Member for the purpose of selling liquor to persons eligible to purchase liquor in accordance with this Ordinance and the regulations made pursuant to this Ordinance.

Person entitled to purchase liquor

48. Subject to this Ordinance and regulations made pursuant to it, every person except

- (a) a person under the age of nineteen years,
- (b) an interdicted person, and
- (c) a person under the apparent influence of liquor or drugs

is eligible to purchase liquor from a liquor store or from a licensee and possess and use it in accordance with this Ordinance and the regulations made pursuant to it.

Agents

49.(1) Where the Executive Member, in his absolute discretion, is of the opinion that there should not be a liquor store established in a particular place in the Northwest Territories, he may appoint a person to act as agent to sell liquor in that place.

Subject to terms and conditions

(2) Where an Agent is appointed pursuant to this section he shall be subject to such terms and conditions as the Executive Member stipulates.

Revocation of Agents

(3) The Executive Member may, in his absolute discretion, revoke the appointment of any Agent and may require him to provide a strict accounting of all funds and may require the return, to such place as the Executive Member may designate, of all liquor held by him as Agent.

Executive Member may designate vendors

50. The Executive Member may designate persons to be vendors who shall have authority to sell liquor at a liquor store, other than a liquor store that is operated by an Agent, to any person who is entitled under this Ordinance to purchase liquor therefrom.

Proof of age

51. Where a vendor or an Agent is not satisfied that a person applying to purchase liquor is of the full age of nineteen years, he may require the applicant to produce evidence of his age satisfactory to such vendor or Agent, and until such evidence is produced, the applicant is not entitled to purchase any liquor from the liquor store.

Arrangements with provinces

52. Where it is not feasible to supply the required liquor from a liquor store, the Commissioner may enter into arrangements with a liquor board, commission or other similar body in a province for the sale of liquor to persons in the Northwest Territories.

Method of delivery

53. Delivery of liquor purchased from a liquor store may be effected, subject to this Ordinance,
(a) by the purchaser carrying it away with him;

- (b) by delivering it to a common carrier on consignment to the purchaser at an address within the Northwest Territories; on the condition that a list of purchasers is filed with the liquor store operator at the time of consignment and on the condition that the liquor store operator is satisfied that the list in question is a bona fide list of purchasers;
- (c) by mailing the liquor to the purchaser or some other person named by him at an address within the Northwest Territories; or
- (d) by authorizing the supplier thereof to deliver it to the purchaser or some other person named by him at a place designated by him.

Delivery of liquor to and from liquor store

54. Any person may, by or under the authority of the Executive Member, transport liquor

- (a) to any liquor store,
- (b) to or from any liquor warehouse established under this Ordinance, or
- (c) from a liquor store to any place in the Northwest Territories to which it may be lawfully delivered,

but no person shall break open or allow to be broken open any package containing liquor, or drink or use, or allow to be drunk or used, any liquor therefrom while being so transported.

Entitled to liquor

55. No person may possess, consume, or use liquor in the Northwest Territories unless authorized to do so by this Ordinance or regulations made pursuant to it.

Transportation of liquor

56.(1) A purchaser of liquor or his duly authorized agent may transport liquor from a liquor store to a place where such liquor may be lawfully consumed, and such transportation need not be direct if the package holding the liquor is unopened.

Idem

(2) A person lawfully in possession of liquor may transport it from a residence occupied by him to a residence to be occupied by him even where the package holding the liquor has been opened.

Ability to purchase

57. Subject to this Ordinance and regulations made pursuant to it, a person who is eligible to purchase liquor at a liquor store may:

- (a) purchase, possess and consume liquor in any licensed premises;
- (b) consume liquor in a private residence when it is given to him by a person who is entitled to purchase liquor at a liquor store, and
- (c) possess and consume in his dwelling house beer lawfully brewed by himself or by a member of his family residing with him in the same dwelling house.

Gifts of liquor 58.(1) Subject to subsection (2), a person may make or receive a bona fide gift of liquor

- (a) if the donor is in lawful possession of the liquor, and
- (b) if the donee is not a person who is prohibited from possessing or consuming liquor, and the donee may have, keep, transport or consume liquor received under this section as if he had purchased it in accordance with this Ordinance and the regulations.

Exception (2) No manufacturer of liquor, his employee or agent shall make a gift of any liquor to any person except as permitted by and in accordance with the regulations.

Imported liquor 59. A person who is eligible to purchase liquor at a liquor store may personally import into the Northwest Territories and lawfully possess 1140 millilitres of spirits or wine or twelve 341 millilitre bottles of beer

- (a) if the liquor was purchased outside of Canada and has been stamped or marked by a Canadian customs officer; or
- (b) if the liquor was purchased from a liquor board, commission or similar body in a province.

Sacramental purposes 60. A person may, for medicinal or sacramental purposes, supply or administer liquor to any person.

Burden of proof 61. The burden of proving that the supplying or administering of liquor was for medicinal or sacramental purposes is upon the person who supplied or administered it, and a justice who tries a case may draw inferences of fact from the frequency with which the liquor was supplied or administered and from the amount of liquor so used, and from the circumstances under which it was used.

Sale, purchase and consumption of pharmaceutical preparations and patent medicines

62. Notwithstanding anything in this Ordinance, any person may sell, purchase 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 Proprietary or Patent Medicine Act (Canada).

Substance containing alcohol

63.(1) Where any substance contains alcohol and also contains ingredients, or medication that makes it unsuitable as a beverage, a druggist or any person who manufactures or deals in the substance, may purchase or use it for any purpose other than a beverage;

Unreasonable quantities sold

(2) Where a justice hearing a complaint in respect of selling, buying or consuming such a substance is of the opinion that an unreasonable quantity of such substance was sold to any person, either once or at intervals, the person selling the substance may be convicted of selling liquor contrary to this Ordinance, and any person, who obtains or consumes such substance for beverage purposes, is guilty of an offence.

Purpose of manufacture

(3) For the purpose of subsection (2) regard shall be had to the legitimate purposes for which the substance was manufactured.

MISCELLANEOUS

Civil liability

64.(1) Where any licensee his employee or agent knowingly sells liquor to or for an intoxicated person whose condition is such that the consumption of liquor would apparently increase his intoxication so that he would be in danger of causing injury to his person or injury or damage to the person or property of others, if the person to or for whom the liquor is sold, while so intoxicated,

- (a) commits suicide or meets death by accident, an action under the Fatal Accidents Ordinance lies against the licensee who or whose employee or agent sold the liquor; or

(b) causes death, injury or damage to the person or property of another person, such other person or his estate, is entitled to recover from the licensee, who or whose employee or agent sold the liquor an amount by way of compensation for such death, injury or damage.

Definition (2) For the purposes of this section an intoxicated person includes a person under the influence of drugs.

Intoxicated condition 65.(1) No person shall be in an intoxicated condition in a public place.

Prosecution (2) No prosecution in respect of an offence under subsection (1) shall be instituted except with the approval of the Executive Member.

Temporary custody for person found intoxicated in public 66.(1) Where a peace officer finds a person who in the opinion of the peace officer is in an intoxicated condition in a public place, he shall, in lieu of charging such person under subsection 65(1), apprehend the person and deal with him in accordance with this section.

Length of custody period (2) A person apprehended pursuant to this section shall not be held in custody for more than twenty-four hours after being apprehended.

Release from custody (3) A person apprehended pursuant to this section shall be released from custody at any time, if in the opinion of the person responsible for his custody

- (a) the person in custody has recovered sufficient capacity that, if released, he is unlikely to cause injury to himself 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 upon his release.

Exemption from liability 67. No action lies against a peace officer or other person for anything done in good faith with respect to the apprehension, custody or release of a person pursuant to section 66.

Power to exempt areas 68. The Executive Member may by order exempt an area or areas of the Territories from the application of section 66 and may amend or revoke the order.

Liquor in
taxicab

69. No person shall transport, carry or have liquor in a vehicle licensed as a taxicab unless the liquor is in the possession of a bona fide paying passenger in the vehicle.

Appointment

70.(1) The Executive Member may appoint as inspectors such persons as are necessary to enforce the provisions of this Ordinance and the regulations.

Powers

(2) An inspector has such powers and shall perform such duties as may be prescribed by regulations made by the Board.

Regulations

71.(1) The Commissioner, upon the recommendation of the Executive Member, may make regulations

- (a) establishing any new class or classes of licence, which shall be deemed to be an inclusion in section 10 of this Ordinance;
- (b) prescribing liquor store hours;
- (c) fixing the fees to be paid to the returning officers and other officials where a plebiscite is held;
- (d) the disposal of forfeited articles or vehicles;
- (e) governing the rules and operation of alcohol education committees;
- (f) establishing an alcohol education committee in any community;
- (g) fixing the days and hours at which any liquor store may be kept open for the sale of liquor;
- (h) fixing the quantities of liquor that may be sold to any one person at any liquor store;
- (i) providing that at any store or stores, liquor not be delivered until up to twenty-four hours after it is ordered;
- (j) exempting parks or dewline stations in the Northwest Territories from any regulations that prohibit or restrict the purchase or consumption of alcohol;
- (k) respecting mail order purchases, including forms to be used for such purposes and the manner and form of proof of age required for such purchases;
- (l) respecting fees for permits or licences granted pursuant to this Ordinance;
- (m) governing the procedure to be followed when a plebiscite is held;
- (n) prescribing the form of ballots and other documents to be used for a plebiscite;

- (o) prescribing the method by which notice of a plebiscite shall be given;
- (p) generally, regarding plebiscites; and
- (q) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Ordinance.

Previous regulations

(2) Notwithstanding any other provision of this Ordinance, regulations made pursuant to paragraph (1)(h) may be made and given retroactive effect and any regulations prescribing the amounts of liquor that may be sold to any one person at any liquor store, that were made prior to the coming into force of this Ordinance, shall have effect and be of the same force as if made by the Commissioner upon the recommendation of the Executive Member after the coming into force of this Ordinance.

PART II

Definition

72. In this Part, "Executive Member" means the member of the Executive Committee of the Government of the Northwest Territories who is assigned by the Commissioner the responsibility for the Liquor Control System.

LIQUOR CONTROL SYSTEM

Executive Member's responsibilities

73. The Executive Member shall administer the provisions of this Part of the Ordinance and supervise the employees of the Government of the Northwest Territories engaged in the administration of this Ordinance and the regulations made thereunder.

Reporting responsibilities

74.(1) The Executive Member shall, as soon as possible after the end of each fiscal year, prepare a report in respect of the operations of the Liquor Control System.

Copy of report to Legislative Assembly

(2) A copy of the Executive Member's report shall be submitted to the Legislative Assembly by the Executive Member at the first session of the Assembly after completion of the report.

Content of report

(3) The report referred to in subsection (1) shall include:

- (a) a statement of assets and liabilities of the Liquor Control System;
- (b) a statement of operations of the Liquor Control System;

- (c) such other accounts and matters as may be necessary to present fairly the operations of the Liquor Control System for that fiscal year;
- (d) a statement of the profit and loss of the Liquor Control System for that fiscal year; and
- (e) the report of the Auditor.

Accounting changes

(4) There shall be stated by way of note to the report referred to in subsection (1):

- (a) particulars of any change in accounting principles or practices or in the method of applying any accounting principle made during the period covered that materially affects the comparability of any of the statements with any of those for the preceding period; and
- (b) the effect, if material, of any such change upon the profit or loss for the period.

Idem

(5) For the purpose of subsection (3), a change in accounting principles or practices or in the method of applying any accounting principle which affects the comparability of a statement with that for the preceding period, even though the change did not have a material effect upon the profit or loss for the period.

Auditor designated

(6) The Auditor shall be the person so designated by the Executive Member.

Auditor's report

(7) The Auditor shall make a report to the Executive Member on the financial statements referred to in subsection (3) stating whether in his opinion the financial statements present fairly the financial position and the results of the operations for the fiscal year in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

Examination of books

(8) The books and records of the Liquor Control System shall at all times be subject to examination and audit by the Auditor.

Revenue

75.(1) All moneys received from the sale of liquor shall be deposited to the credit of a special account designated as the Liquor Revolving Fund.

Idem

(2) All moneys received from licence fees and other moneys derived from the administration of this Ordinance or regulations made pursuant to this Ordinance shall be deposited to the credit of the Northwest Territories Consolidated Revenue Fund.

Expenditures

(3) All sums necessary for the purchase of liquor and other necessary expenses concerning the purchase and sale of liquor shall be paid out of the Liquor Revolving Fund.

Transfer of funds

(4) The Executive Member shall, quarterly, or at such other times as are necessary, transfer from the Liquor Revolving Fund to the General Account in the Northwest Territories Consolidated Revenue Fund an amount equal to one quarter of the estimated net annual revenue resulting from the administration of this Ordinance and the regulations made pursuant to the Ordinance concerning the purchase and sale of liquor, but the total amount so transferred shall not exceed the net revenue of the fiscal year established by audit.

Regulations

76. The Commissioner, upon the recommendation of the Executive Member, may make regulations:

- (a) determining the nature, form and capacity of the packages to be used for holding liquor kept for sale or sold under this Ordinance, and the manner in which such packages are closed, fastened or sealed;
- (b) determining the classes, varieties and brands of liquor to be kept for sale in liquor stores and the prices to be charged therefor;
- (c) for purchasing, importing, having in his possession and under his control for sale and selling liquor in accordance with this Ordinance;
- (d) providing for the keeping of liquor in, and the delivery of liquor to or from, any liquor store or warehouse established under this Ordinance, and the procuring of all furnishings and fixtures;
- (e) maintaining and providing for the construction, acquisition or leasing of premises for liquor stores and liquor warehouses;
- (f) concerning the general administration of the Liquor Control System;
- (g) controlling the operation of liquor stores except for store hours;
- (h) governing the disposal of liquor and packages that have been forfeited under this Ordinance; and
- (i) determining the nature, form and capacity of packages of liquor to be kept for sale and the manner in which such packages shall be closed.

PART III

PROHIBITIONS AND PENALTIES

Unlawful sale
of liquor

77. Except as provided in this Ordinance or the regulations, no person shall
(a) expose liquor for sale;
(b) keep liquor for sale; or
(c) sell or offer to sell liquor.

Supplying to
person under
nineteen years
Idem

78.(1) No person shall knowingly sell or supply liquor to a person under the age of nineteen years.

(2) No person shall sell or supply liquor to a person apparently under the age of nineteen years unless that person is in fact nineteen years of age or over.

Exemption

(3) This section does not apply to supplying a person under the age of nineteen years

- (a) of liquor in the home of such person or in a residence by his parent or guardian;
- (b) of beer or wine in a public dining room, dining lounge or at a banquet when such person is accompanied by his parent or guardian; or
- (c) of liquor for medicinal purposes administered by a physician or dentist.

Justice to
determine
from
appearance

(4) In a prosecution for a contravention of subsection (2) the justice shall determine from the appearance of such person and other relevant circumstances whether he is apparently under the age of nineteen years.

False informa-
tion on mail
applications

79. No person shall supply any false information on any mail order application or complete any form in a misleading or false manner.

Supplying
interdicted
persons

80. No person shall knowingly procure or sell or give to an interdicted person any liquor, or directly or indirectly assist in procuring, selling or giving any liquor to an interdicted person except liquor

- (a) supplied to an interdicted person upon the prescription of a physician; or
- (b) administered to him by a physician or dentist pursuant to this Ordinance.

Unlawful possession

81. No person shall have liquor in his possession other than in a place where he is authorized to be in possession of liquor pursuant to this Ordinance or the regulations.

Persons under nineteen

82. No person under the age of nineteen years shall purchase liquor or have liquor in his possession, or attempt to purchase liquor.

Unlawful possession

83. No person shall have or keep any liquor that has not been purchased or obtained in a manner authorized by the law.

Unlawful purchase

84. No person shall purchase or attempt to purchase liquor from a person who is not authorized to sell liquor pursuant to this Ordinance and the regulations.

Unlawful consumption

85.(1) Except as provided by this Ordinance, no person shall consume liquor in a public place.

Evidence of unlawful consumption

(2) The possession by a person in a public place, other than licensed premises, of liquor in any container other than

(a) a bottle that because of the condition of any seal or covering on the neck or cap appears not to have been opened,

(b) a beer bottle from which the cap has not been removed, or

(c) a beer can that has not been punctured or opened in any way

is, in absence of evidence to the contrary, proof that such a person was consuming liquor in that public place.

Public place off hours

(3) A public place, that allows the public access during certain hours only, does not thereby cease to be a public place during other hours.

Common rooms

(4) A common room or party room in an apartment is not a public place so long as it is used by tenants of the building for their own purposes.

Unlawful
consumption

86.(1) No person under the age of nineteen years shall consume liquor.

Exemption

(2) Subsection (1) does not apply where liquor is supplied to a person under nineteen years of age pursuant to section 60 or subsection 78(3).

Unlawful
consumption
by an
interdicted
person

87. No interdicted person shall consume liquor except liquor that is supplied or administered to him by a physician or a dentist for medicinal purposes, or for sacramental purposes pursuant to section 60.

Unlawful
consumption

88. No person shall consume in his residence any liquor that has not been lawfully had or acquired.

What liquor
may be sold

89. No liquor shall be kept for sale, sold or served in any licensed premises except liquor
(a) that may, under the licence, be sold therein;
and
(b) that is purchased by the licensee in accordance with this Ordinance and the regulations.

Liquor not to
be sold

90. No liquor shall knowingly be sold or served in any licensed premises to any person who is not entitled to consume liquor in such premises.

Sale to
intoxicated
persons

91.(1) No liquor shall be sold or supplied in any licensed premises to or for any person who is apparently in an intoxicated condition or who is apparently under the influence of drugs.

Prohibitions

(2) No licensee shall allow in the premises for which the licence is issued
(a) any gambling, drunkenness or any riotous, quarrelsome, violent or disorderly conduct to take place,
(b) any person of notoriously bad character to remain, or
(c) any slot machine or device used for gambling.

Minors on
premises

(3) Except as authorized by this Ordinance or the regulations, no licensee shall allow any person under or apparently under the age of nineteen years to remain in that part of the licensed premises where liquor is sold or kept for sale unless that person is in fact nineteen years of age or over.

Entertainment
by persons
under nineteen

(4) Nothing in this section shall prohibit a person under the age of nineteen years from entering and remaining in a licensed premises for the purpose of providing entertainment.

Objectionable
persons

(5) A licensee, his employee or agent who has reasonable grounds to suspect from the conduct of any person who has come into his licensed premises that such person, although not of notoriously bad character, is present for some improper purpose or is committing an offence against this Ordinance may request such person to leave the licensed premises immediately and, unless the request is forthwith complied with, such person shall be forcibly removed with such force as is reasonably necessary.

Persons
forbidden to
remain on
premises

(6) No person shall
(a) remain in licensed premises after having been requested to leave the premises by the licensee, his employee or agent; or
(b) enter a licensed premises after having been forbidden to enter the premises by the licensee, his employee or agent.

Idem

92. Except as authorized by this Ordinance or the regulations, no person under the age of nineteen years shall enter or be in licensed premises.

Sale and
consumption

93. No liquor shall be sold or served to any person or consumed by him in any licensed premises except in accordance with this Ordinance.

Neglecting
of children

94. No person who is a parent, guardian or head of a family having the care, custody and control of a child under the age of eight years shall enter or be in a licensed premises while such child is knowingly unattended by a competent person.

Inducements
to licensees

95.(1) No person shall, either directly or indirectly, offer or give any financial or material inducement to any licensee, his employee or agent for the purpose of increasing the sale or distribution of any brand of liquor, whether such inducement is by way of discount, rebate, sale under the established price for products of the same or a similar quality or by the installation of equipment or other form of payment or benefit.

Taking of inducements prohibited

(2) No licensee, his employee or agent shall, either directly or indirectly, request, demand or receive any financial or material inducement mentioned in subsection (1).

Interdicted persons prohibited from entering

96. No interdicted person shall enter upon or be in licensed premises, except in a dining room or dining lounge.

INTERDICTION AND PROCEEDINGS

Order of interdiction

97.(1) Where it appears to the satisfaction of a justice that any person who resides or sojourns in the Territories, by excessive drinking of liquor, misspends, or wastes or unduly lessens his estate, injures his health or interrupts the peace and happiness of his family, the justice may make an order of interdiction directing the cancellation of any permit held by that person and prohibiting the sale of any liquor to, and the possession and consumption of liquor by such person for a period not exceeding three years from the date of that order.

Filing of order

(2) Where a justice makes an interdiction order pursuant to subsection (1), he shall file the order with the Board.

Powers of justice

(3) A justice acting under subsection (1), has the power to compel the attendance of witnesses, the production of documentary or other evidence and to take such other steps as are necessary for a full and proper hearing.

Penalties for breach of interdiction order

(4) A person who is the subject of an order of interdiction pursuant to this section and who breaches an order made pursuant to this section is guilty of an offence and liable on summary conviction either to a fine not exceeding one hundred dollars, or to such community work order as the Justice considers appropriate, and in default of payment of fine or completing such work order, to imprisonment for a term not exceeding seven days.

Setting aside
of orders of
interdiction

98. An order of interdiction made under section 97 may, by order, be set aside, upon application,

- (a) by a territorial judge, if the order was made by a justice of the peace, or by a judge, if the order was made by a territorial judge, where the person in respect of whom the order was made satisfies the territorial judge or the judge, as the case may be,
 - (i) that the circumstances of the case did not warrant the making of the order, or
 - (ii) that he has refrained, for at least six months prior to the application, from doing all those things that caused the order to be made; or
- (b) at any time by the justice who made the order.

Board to be
notified

99. A copy of every order of interdiction and order setting aside an order of interdiction shall be filed with the Board who shall forthwith notify all vendors, Agents and licensees of the order.

Penalties
to individ-
uals

100.(1) Every person, other than an incorporated company, who contravenes any of the provisions of sections 77, 78, or 80 is guilty of an offence and is liable on summary conviction,

- (a) for a first offence, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding twelve months, or to both, and
- (b) for a second or subsequent offence, to a fine not less than five thousand dollars and not more than ten thousand dollars or to imprisonment for a term not exceeding twenty-four months or to both.

Penalties
to corpor-
ations

(2) Every incorporated company that contravenes sections 77, 78 or 80 is guilty of an offence and is liable, on summary conviction,

- (a) for a first offence, to a fine not exceeding five thousand dollars, and
- (b) for a second or subsequent offence, to a fine not less than five thousand dollars and not more than ten thousand dollars.

Penalties to
individuals

(3) Every person, other than an incorporated company who contravenes section 91 is guilty of an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or imprisonment for a term not exceeding twelve months, or to both.

Penalties to
incorporated
companies

(4) Every incorporated company that contravenes section 91 is guilty of an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

Penalties to
minors

101. Every person who contravenes subsection 86(1) is guilty of an offence and liable on summary conviction to either a fine not exceeding one hundred dollars, or to such community work order as the justice considers appropriate, and in default of payment of fine or completing such work order, to imprisonment for a term not exceeding seven days.

General
penalty

102.(1) Every person, other than an incorporated company, who contravenes any provision of this Ordinance or the regulations for which no other penalty is provided in this Ordinance is guilty of an offence and liable, on summary conviction, to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding thirty days or to both.

Idem

(2) Every incorporated company that contravenes any provision of this Ordinance or the regulations for which no other penalty is provided in this Ordinance is guilty of an offence and liable, on summary conviction, to a fine not exceeding one thousand dollars.

Ineligible
to purchase

103.(1) Notwithstanding anything in this Ordinance a justice may, upon conviction of a person other than an incorporated company, for contravening any of the provisions of sections 77, 78 or 80, in addition to any other penalty, make an order prohibiting that person from purchasing liquor from a liquor store,

(a) in the case of a first offence, for a period not exceeding six months; and

(b) in the case of a second or subsequent offence, for a period not exceeding one year.

Executive
Member to
be informed

(2) Where an order has been made under subsection (1) the justice shall inform the convicted person of the order and as soon as possible forward, to the Executive Member mentioned in section 72, a certified copy of the conviction and the order.

Ineligible
person may
purchase and
consume on
licensed
premises

(3) Nothing in this section prevents a person prohibited from purchasing liquor from a liquor store pursuant to this section from purchasing liquor for consumption in licensed premises.

Justice may
declare
residence a
public place

104. Where the occupant of a residence or any member of his family living therein or any lodger, boarder or tenant of such residence, is convicted of keeping a disorderly house within the meaning of the Criminal Code (Canada) or of contravening any of the provisions of sections 77, 78 or 80 in such residence or any part thereof or in respect of any liquor kept therein or removed therefrom, the justice making the conviction may, by order, declare such residence or any part thereof to be a public place for a period not exceeding one year from the date of such conviction but such order may be varied or rescinded by a justice where he deems it just.

Procedure in
respect of
subsequent
conviction

105. The proceedings upon an information for an offence under this Ordinance or the regulations in a case where a previous conviction or convictions may affect the fine or imprisonment shall be as follows:

- (a) the justice shall in the first instance inquire concerning the offence with which the accused is charged only, and if he is found guilty thereof he shall then, and not before, be asked whether he was previously convicted and if he denies that he was previously convicted or does not answer the question, the justice shall then inquire concerning the previous conviction or convictions;
- (b) where a fine or the imprisonment imposed upon conviction for an offence becomes void or defective after the making thereof for the reason that a previous conviction was set aside, quashed or otherwise rendered void, the justice by whom the subsequent conviction was made shall summon the person convicted to appear at a time and place set out in the summons and shall thereupon, on the appearance of such person or upon proof of the due service of the summons, if he fails to appear, amend the fine or imprisonment imposed on the subsequent conviction, and adjudge such fine or imprisonment as it might have been adjudged had the previous conviction never existed, and the amended fine or imprisonment shall thereupon be held valid to all intents and purposes as if it had been made in the first instance; and

(c) where a person has been convicted for a violation of any of the provisions of sections 77, 78 or 80 and is afterwards convicted for violations of any of such sections, a subsequent conviction shall be deemed to be a conviction for a second or subsequent offence within the meaning of this section and he shall be dealt with and punished accordingly, although any such conviction may have been for an offence under a different section.

Liability of corporation officials

106.(1) Where an offence under this Ordinance or the regulations is committed by an incorporated company, the officer or employee of the incorporated company in charge of the premises in which the offence is committed shall,

- (a) in the absence of evidence to the contrary, 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.

Liability of corporation

(2) Nothing in this section relieves the corporation or the person who actually committed the offence from liability therefor.

Liability of employer

107. Where an offence under this Ordinance or the regulations is committed by an employee in the course of his employment by a licensee under this Ordinance, the licensee shall, in the absence of evidence to the contrary, be deemed to be a party to the offence.

Description of offence

108. In a prosecution under this Ordinance or the regulations, it is sufficient to state the sale, keeping, giving, purchasing or consuming of liquor without stating the name, kind of liquor, the price thereof or the consideration therefor.

Certificate of analyst

109.(1) In any proceedings under this Ordinance or the regulations, a certificate purporting to be signed by an analyst appointed by the Board stating that he has performed a chemical analysis on any liquor or other fluid preparation, compound or substance and the result thereof is, in the absence of evidence to the contrary, proof of the facts stated in the certificate without proof of the signature or the official character of the person appearing to have signed the certificate.

- Limitation (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 or his counsel have consented to the production in evidence of the certificate of an analyst without such notice.
- Inference respecting liquor 110.(1) The justice trying the case, in the absence of evidence to the contrary, is at liberty to infer that any liquor in question is liquor within the meaning of this Ordinance from the fact that a witness describes it as liquor or by a name that it is commonly applied to liquor.
- Deemed purchases (2) A purchase made from a liquor store shall be deemed to be liquor within the meaning of the Ordinance.
- Deposition of witness 111. In a prosecution under this Ordinance 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 112. Upon 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 Ordinance or the regulations, the court may draw inference 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 sale
of liquor

113.(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 justice is satisfied that a transaction in the nature of a sale, disposal, gift or purchase actually took place.

Consumption

(2) Proof of consumption or intended consumption of liquor on premises on which such 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.

Burden of
proof

(3) The burden of proving the right to possess, sell, give, purchase or consume liquor is on the person accused of improperly or unlawfully possessing, selling, giving, purchasing or consuming liquor.

Proof of
Board
documents

114. In a prosecution under this Ordinance or the regulations, the production of a copy of a Board order, licence or other document of the Board, certified as a true copy by a member of the Board, is admissible in evidence and, in the absence of evidence to the contrary, is proof of the statements contained in the document without proof of the signature or official character of the person appearing to have signed the same, and without further proof thereof.

Immunity

115. Notwithstanding any provision of this Ordinance, where the person charged with an offence under this Ordinance was acting as a peace officer whose duty it was to enforce this Ordinance, or was acting under the instructions of the Royal Canadian Mounted Police, Criminal Investigation Branch, for the purpose of enforcing any provision of this Ordinance and obtaining evidence upon which any person might be brought to justice, the accused shall not be convicted.

ENFORCEMENT

Searches

- 116.(1) A peace officer may, at any time,
- (a) without a warrant, enter and search any vehicle in which he has reasonable grounds to believe that liquor is unlawfully kept or had, or kept or had for unlawful purposes, and search any person found in such vehicle; and
 - (b) under the authority of a warrant issued under subsection (3), enter and search any residence, building or place in which he has reasonable grounds to believe that liquor is unlawfully kept or had or kept or had for unlawful purposes, and search any person found in such residence, building or place.

Seizures

- (2) A peace officer who has made a search under subsection (1) may at any time seize and take away
- (a) any liquor and packages in which the liquor is kept contrary to this Ordinance or regulations made pursuant to it, and
 - (b) any book, paper or thing that he reasonably believes may be evidence of the commission of an offence against this Ordinance.

Search warrant

(3) A justice who is satisfied by information upon oath that there are reasonable grounds for believing that liquor is unlawfully kept or had, or kept or had for unlawful purposes, in any residence, building or place may issue a warrant under his hand authorizing a peace officer named therein at any time, including Sunday or other holiday, and by day or by night, to enter the residence, building or place and search for liquor, and, for the purpose of exercising his authority under this subsection, a peace officer may, with such assistance as he deems necessary, break open any door, window, lock, fastener, floor, wall, ceiling, compartment, plumbing fixture, box, container or any other thing.

Application for restor- ation

117.(1) Where liquor or any other thing has been seized under subsection 116(2), any person may, within thirty days from the date of such seizure, apply to a justice for an order of restoration under subsection (2).

Hearing

(2) Where upon the hearing of an application under subsection (1) the justice is satisfied that

(a) the applicant is entitled to possession of the liquor or other thing seized, and

(b) the liquor or other thing seized is not required as evidence in any proceedings in respect of an offence under this Ordinance, he shall order that the liquor or other thing seized be restored forthwith to the applicant and, where the justice is satisfied that the applicant is entitled to the possession of the liquor or other thing seized but is not satisfied as to the matter mentioned in paragraph (b), he shall order that the liquor or other thing seized be restored to the applicant

(c) upon the expiration of three months from the date of the seizure, if no proceeding in respect of an offence under this Ordinance has been commenced, or

(d) upon the final conclusion of any such proceeding.

Forfeiture

(3) Where no application has been made for the return of any liquor or other thing seized under subsection 116(2) or an application has been made but upon the hearing thereof no order of restoration has been made, the liquor or other thing seized is forfeited to the Territories to be disposed of in such manner as to the Board seems just.

Forfeiture
on conviction

(4) Where a person is convicted of an offence under this Ordinance or the regulations, any liquor or other thing seized under subsection 116(2) by means of which the offence was committed is forfeited to the Territories to be disposed of in such manner as to the Board seems just.

Report of
seizure

118. Where liquor is seized by a peace officer, he shall forthwith make an inventory thereof and a report in writing of the seizure to the Board.

Seizure of
vehicle by
officer

119.(1) A peace officer may seize any vehicle or article by means of or in relation to which he reasonably believes an offence under this Ordinance, or the regulations pursuant to this Ordinance, has been committed.

Detention

(2) Subject to this section, a vehicle or article seized pursuant to subsection (1) may be detained for three months following the day of seizure, unless during that period proceedings under this Ordinance or regulations pursuant to this Ordinance are undertaken, in which case the vehicle or article may be further detained until the proceedings are finally concluded.

Application
for return

(3) The owner, or his agent, may apply to a judge for a return of any vehicle or article seized pursuant to this section and the application shall be heard within seven days.

Considerations
regarding
return

(4) Where an application is made pursuant to subsection (2) the judge shall consider

- (a) whether the owner knew or ought to have known of the use to which the vehicle or article was put in connection with the alleged offence,
- (b) the hardship that the seizure will cause to the owner in light of the seriousness of the alleged offence,
- (c) any other facts that are relevant to the application,

and may order the return of any vehicle or article seized upon such conditions, including the posting of a surety bond, as he considers appropriate.

Order of
forfeiture

(5) Subject to this section, where a person is convicted of an offence under sections 77, 78 or 80, in addition to any other penalty that may be imposed, any vehicle or article by means of which or in relation to which the offence was committed, may by order of a judge be declared forfeit to the Commissioner, and may be disposed of in such manner and at such time and place as the Commissioner may direct, but no vehicle or article shall be disposed of pending an appeal against the conviction or before the time within which the appeal may be taken has expired.

Considerations regarding forfeiture

- (6) In deciding whether or not to order forfeiture pursuant to subsection (5) the judge shall consider:
- (a) the nature of the offence;
 - (b) whether the owner of the vehicle or article knew or ought to have known that the vehicle or article was used in connection with an offence under section 77, 78 or 80; and
 - (c) the hardship that the forfeiture will cause to the owner in light of the owner's connection to the offence in question.

Arrest without warrant

120. Any peace officer may arrest without warrant a person whom he finds committing an offence against this Ordinance or the regulations.

Searches of the opposite sex

121. Where a person suspected of an offence is of the opposite sex as the peace officer involved, the peace officer may, if he or she feels a search is warranted, employ a person of the same sex as the suspect to carry out such search and the person so employed has all the powers, privileges and immunities of a peace officer for that purpose.

Officer may demand name and address

122.(1) Any peace officer who, pursuant to this Ordinance, enters any licensed premises or any residence, building or place and seizes any liquor may demand the name and address of any person found therein and, if the peace officer has reasonable and probable grounds to believe that the name or address given is false, the peace officer may arrest that person without warrant.

Offence

(2) Any person found on premises described in subsection (1) who refuses to give his name and address to a peace officer when requested or who gives false information with respect to his name or address is guilty of an offence.

Continuing of licences and permits

123. All licences and permits that are in force and effect on the coming into force of this Ordinance, continue until they expire and shall be subject to the same liabilities and obligations as if this Ordinance had not come into force.

Repeal

124. The Liquor Ordinance, R.O.N.W.T. 1974, c. L-7, is repealed.

Coming into force

125. This Ordinance shall come into force on a day to be proclaimed by the Commissioner.