

2007-09-20
Cook Islands Amendment Act 1961

Public Act 1961 No 15
Date of assent 18 October 1961

Cook Islands Amendment Act 1961: repealed, on 20 September 2007, by section 7(1) of the Cook Islands Amendment Act 2007 (2007 No 49).

Contents

	Page
Title	2
1 Short Title	2

Part 1
Intoxicating liquor

2	Commencement	2
3	Interpretation	2
4	Liquor control authority	3
5	Manufacture of intoxicating liquor prohibited	4
7	High Commissioner may import intoxicating liquor	4
8	Offences as to intoxicating liquor illegally manufactured or imported	5
9	Sale of intoxicating liquor	5
10	Restrictions on giving intoxicating liquor to other persons	6
11	Arrest of persons suspected of having illegally dealt with intoxicating liquor	6
12	Seizure and forfeiture of intoxicating liquor	6
13	Search warrant	7
14	Persons found on premises deemed illegally dealing in intoxicating liquor	8
15	Names of persons found on premises searched may be demanded	8

Part 2
Miscellaneous amendments

An Act to amend the Cook Islands Act 1915

1 Short Title

This Act may be cited as the Cook Islands Amendment Act 1961, and shall be read together with and deemed part of the Cook Islands Act 1915 (hereinafter referred to as the principal Act).

Part 1
Intoxicating liquor

2 Commencement

This Part of this Act shall come into force on a date to be appointed for the commencement thereof by the Governor-General, by Proclamation. Different dates may be so appointed for the commencement of this Part in different islands of the Cook Islands.

Part 1 of this Act came into force in the Cook Islands, as from 1 March 1964; see regulation 2 Cook Islands Amendment Act Commencement Order 1964 (SR 1964/24).

3 Interpretation

In this Part of this Act, unless the context otherwise requires,—

The Cook Islands*[Repealed]*

The Cook Islands: omitted, as from 1 January 1967, by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39).

[Repealed]

Intoxicating liquor means alcohol and any liquor containing alcohol; but, except as may be otherwise provided by any Act of the Legislative Assembly of the Cook Islands or any Ordinance or regulation, does not include—

- (a) Perfumery or medicinal preparations containing spirit:
- (b) Methylated spirit and other preparations containing spirit but not suitable for human consumption:

- (c) Fermented or other liquor which on analysis is found to contain 2 or fewer parts percent of proof spirit.

Intoxicating liquor: amended, as from 7 June 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 120) by inserting the words “any Act of the Legislative Assembly of the Cook Islands or”.

Resident Commissioner*[Repealed]*

Resident Commissioner: omitted, as from 1 January 1967, by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39).

[Repealed]

4 Liquor control authority

- (1) Subject to the provisions of this Part of this Act, the Legislative Assembly of the Cook Islands may by Act,—

- (a) Constitute an authority in the Cook Islands for the purpose of controlling the sale and consumption of intoxicating liquor in the Cook Islands ;
- (b) Make provision for the appointment of the Chairman and members of the authority by the High Commissioner;
- (c) Make provision for the sale and consumption of intoxicating liquor in the Cook Islands .

- (2) In the exercise of its functions and powers, the authority shall comply with such policy directions as may from time to time be given to it by the Premier of the Cook Islands.

Subsection (1) was amended, as from 7 June 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 1) by inserting the words “may by Act”.

Subsection (1) was further amended, as from 1 January 1967 by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39) by omitting the words “and the Niue Island Assembly, as the case may be, may, by Ordinance”.

Subsection (1)(a) was amended, as from 1 January 1967 by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39) by omitting the words “other than Niue or, as the case may be, in Niue”.

Subsection (1)(b) was amended, as from 1 January 1967, by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39) by substituting the words “High Commissioner” for the words “Resident Commissioner”.

Subsection (1)(c) was amended, as from 1 January 1967, by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39) by omitting the words “other than Niue or in Niue, as the case may be”.

Subsection (2) was amended, as from 7 June 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 1) by inserting the words “in the case of an authority constituted in Niue, and by the Premier of the Cook Islands, in the case of an authority constituted in the Cook Islands other than Niue”.

Subsection (2) was further amended, as from 1 January 1967, by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39) by substituting the words “the Premier of the Cook Islands” for the words “the Minister in the case of an authority constituted in Niue, and by the Premier of the Cook Islands, in the case of an authority constituted in the Cook Islands other than Niue”.

5 Manufacture of intoxicating liquor prohibited

- (1) It shall not be lawful for any person to manufacture intoxicating liquor in the Cook Islands.
- (2) Every person who commits an offence against this section is liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$100.

6

This section was repealed, as from 1 October 1996, by section 289(1) Customs and Excise Act 1996 (1996 No 27).

In the original subsection (3) the references to the Customs Act 1966 (1966 No 39) and section 70 of that Act were substituted, as from 1 January 1967, for references to the Customs Act 1913 and section 47 of that Act pursuant to section 311(1) Customs Act 1966 (1966 No 19).

7 High Commissioner may import intoxicating liquor

- (1) The High Commissioner may, for and on behalf of the Crown, and at the cost of the Cook Islands Treasury purchase in New Zealand or elsewhere and import into the Cook Islands such intoxicating liquor as he thinks is required from time to time, either for the hospitals and medical services of the Cook Islands or for sale in accordance with the provisions of this Part of this Act.
- (2) Any liquor so imported may be sold in accordance with the provisions of an Act or Ordinance made under the powers conferred by section 4 of this Act and not otherwise.

Subsection (1) was amended, as from 1 January 1967, by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39) by substituting the words “High Commissioner” for the words “Resident Commissioner”, and the words “or the Niue Island Treasury, as the case may be”, were omitted by that section and Act.

Subsection (2) was amended, as from 7 June 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 1) by inserting the words “Act or”.

8 Offences as to intoxicating liquor illegally manufactured or imported

Every person is liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$100 who—

- (a) Carries or conceals any intoxicating liquor manufactured or imported in breach of the provisions of this Part of this Act; or
- (b) Has any such liquor in his possession or under his control; or
- (c) Is the owner, lessee, or occupier of any premises in or about which any such liquor is found, unless he satisfies the High Court that the liquor was there without his knowledge or consent.

9 Sale of intoxicating liquor

- (1) It shall not be lawful for any person, other than the High Commissioner or such other person or persons as may from time to time be authorised by him in writing, to sell or offer for sale or have in his possession for sale any intoxicating liquor in the Cook Islands, and the High Commissioner and any person so authorised by the High Commissioner shall comply with the provisions of any Act or Ordinance made under the powers conferred by section 4 of this Act.
- (2) For the purpose of this section a contract of barter, or any other contract under or by virtue of which the property in any intoxicating liquor passes to any person, shall be deemed to be a contract of sale.
- (3) In any prosecution for offering for sale or having in possession for sale any intoxicating liquor in breach of this section proof that any intoxicating liquor was found in the possession of the accused shall be evidence from which the High Court may infer that he had offered it for sale or had it in his possession for sale.
- (4) Every person who commits an offence against this section is liable to imprisonment for a term not exceeding one year or to a fine not exceeding \$200.

Subsection (1) was amended, as from 7 June 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 1) by inserting the words “Act or”.

Subsection (1) was further amended, as from 1 January 1967, by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39) by substituting the words “High Commissioner” for the words “Resident Commissioner”.

10 Restrictions on giving intoxicating liquor to other persons

- (1) It shall not be lawful in the Cook Islands for any person to give intoxicating liquor to any other person, if that other person—
- (a) Is under the age of 21 years and is not a member of the household of the person giving the liquor; or
 - (b) Is known to the person giving the liquor not to be entitled to purchase intoxicating liquor pursuant to the provisions of an Act or Ordinance made under the powers conferred by section 4 of this Act, unless that other person is a bona fide guest of the person giving the liquor:

Provided that nothing in this subsection shall apply to the use of wine for sacramental purposes in accordance with the practice of the Christian religion or to the giving or administering of intoxicating liquor by or with the approval of a Medical Officer for medicinal purposes.

- (2) Every person who commits an offence against this section is liable to a fine not exceeding \$100.

Subsection (1)(b) was amended, as from 7 June 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 1) by inserting the words “Act or”.

11 Arrest of persons suspected of having illegally dealt with intoxicating liquor

- (1) Any constable or officer of Customs may arrest without warrant any person whom on reasonable grounds he suspects of having committed an offence against paragraph (a) or paragraph (b) of section 8 of this Act.
- (2) Where any person is arrested without warrant under this section, the provisions of subsection (2) of section 281 and section 283 of the principal Act shall apply as if he had been arrested under the said section 281.

12 Seizure and forfeiture of intoxicating liquor

- (1) Any constable or officer of Customs may seize and remove any intoxicating liquor that on reasonable grounds he suspects

has been manufactured, imported, carried, concealed, or sold in breach of the provisions of this Part of this Act or of any Act or Ordinance made under the powers conferred by section 4 of this Act, and any vessel containing the liquor or used in its manufacture, importation, carriage, concealment, or sale.

- (2) Upon the conviction for an offence against this Part of this Act or against any Act or Ordinance made under the powers conferred by section 4 of this Act of any person appearing to the High Court to be an owner or to have been in possession of any intoxicating liquor or vessel seized under this section, or to be an owner or occupier of the place where the liquor or vessel was seized, the High Court, unless on special grounds it thinks it inadvisable to do so, shall make an order declaring the liquor or vessel or both to be forfeited, and thereupon the liquor or vessel or both shall be deemed to be forfeited to the Crown and may be sold or destroyed or otherwise disposed of as the High Commissioner directs.

Subsections (1) and (2) were amended, as from 7 June 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 1) by inserting the words “Act or”.

Subsection (2) was further amended, as from 1 January 1967, by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39), by substituting the words “High Commissioner” for the words “Resident Commissioner”.

13 Search warrant

- (1) Any Judge or Commissioner of the High Court, if satisfied on oath that there is reasonable ground to believe that in any place, premises, vehicle, or ship there is any intoxicating liquor that has been manufactured, imported, sold, carried, or concealed in breach of the provisions of this Part of this Act or of any Act or Ordinance made under the powers conferred by section 4 of this Act, may grant a warrant under his hand pursuant to the provisions of section 314 of the principal Act.
- (2) Every person who, by himself or by any person in his employ or acting by his direction or with his consent, refuses or fails to admit without any unnecessary delay any officer demanding to enter any place, premises, vehicle, or ship pursuant to a warrant issued under the provisions of subsection (1) of this section, or hinders or obstructs any officer in the execution of any such warrant, is liable to a fine not exceeding \$20.

Subsection (1) was amended, as 7 June 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 1) by inserting the words “Act or”.

14 Persons found on premises deemed illegally dealing in intoxicating liquor

When in the course of a search under a warrant issued pursuant to section 13 of this Act any intoxicating liquor has been seized,—

- (a) Without limiting the provisions of section 8 of this Act in any case to which that section applies, the occupier and the manager or other person in charge (if any) of the place, premises, vehicle, or ship searched shall each, until the contrary is proved, be deemed to have been unlawfully dealing in intoxicating liquor, and shall each be liable to a fine not exceeding \$20:
- (b) Any other person found at the time on the place, premises, vehicle, or ship searched in whose possession or under whose control that liquor, or any container or package containing that liquor, was found shall, until the contrary is proved, be deemed to have been there for the purpose of illegally dealing in intoxicating liquor, and shall be liable to a fine not exceeding \$20.

15 Names of persons found on premises searched may be demanded

- (1) Where any constable or officer of Customs seizes any intoxicating liquor under the powers conferred by section 12 of this Act or by section 314 of the principal Act,—
 - (a) He may demand the name and address of any person found present in the place, premises, vehicle, or ship where the liquor is seized, being the occupier or manager or other person in charge of the place, premises, vehicle, or ship or a person in whose possession or under whose control the liquor, or any container or package containing the liquor, has been found; and
 - (b) If he has reasonable grounds to suspect that the name or address given is false, he may examine that person further as to the correctness of that name and address.

- (2) If that person fails on demand to give his name and address or to answer satisfactorily the questions put to him, any constable may arrest him without warrant.
- (3) Where any person is arrested without warrant under this section, the provisions of subsection (2) of section 281 and section 283 of the principal Act shall apply as if he had been arrested under the said section 281.
- (4) Every person who is requested by a constable or an officer of Customs under subsection (1) of this section to give his name and address and who fails to give the same or gives false information with respect to that name or address is liable to a fine not exceeding \$20.

16

17

Section 17 was repealed, as from 17 November 1964, by section 58 Cook Islands Amendment Act 1964 (1964 No 70).

Part 2

Miscellaneous amendments

18

19

Section 19 was repealed, as from 17 November 1964, by section 58 Cook Islands Amendment Act 1964 (1964 No 70).

20

Contents

- 1 General
 - 2 About this eprint
 - 3 List of amendments incorporated in this eprint (most recent first)
-

Notes**1 General**

This is an eprint of the Cook Islands Amendment Act 1961. It incorporates all the amendments to the Cook Islands Amendment Act 1961 as at 20 September 2007. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 18 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 About this eprint

This eprint has not been officialised. For more information about officialisation, please see "Making online legislation official" under "Status of legislation on this site" in the About section of this website.

3 List of amendments incorporated in this eprint (most recent first)

Cook Islands Amendment Act 2007 (2007 No 49): section7(1)
