



# Liquor Control Act

CHAPTER 260

OF THE

REVISED STATUTES, 1989

amended 1990, c. 33; 2000, c. 28, ss. 69-84; 2001, c. 4, ss. 11-29; 2002, c. 30, s. 10

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## An Act to Provide for the Regulation and Sale of Alcoholic Liquors

### Short title

**1** This Act may be cited as the *Liquor Control Act*. R.S., c. 260, s. 1.

### INTERPRETATION

### Interpretation

**2** In this Act,

(a) "agency store" means a store established pursuant to the authority contained in subsection (4) of Section 42, the operator of which may pursuant to this Act sell liquor under the control of the Corporation, and includes a private wine or specialty retail store;

- (b) "beer" means any alcoholic liquor obtained by the fermentation of an infusion or decoction of barley, malt and hops or of any similar products in drinkable water;
- (c) "Board of Directors" means the Board of Directors of the Corporation appointed pursuant to this Act;
- (ca) "Chair" means the Chair of the Board of Directors appointed pursuant to this Act;
- (cb) "Corporation" means the Nova Scotia Liquor Corporation continued pursuant to this Act;
- (d) "dentist" means a member of the Dental Association of the Province of Nova Scotia authorized to practise dentistry under the *Dental Act*;
- (da) "Department" means the Department of Environment and Labour;
- (e) "druggist" means pharmaceutical chemist registered and entitled to practise under the *Pharmacy Act*;
- (f) "government control" means the sale of liquor within the Province in accordance with this Act or the regulations, through the instrumentality of the Corporation continued by this Act;
- (g) "Government store" means a store established by the Corporation under this Act for the sale of liquor and includes a duty-free liquor store;
- (h) "hotel" means any place where the public may, for a consideration, obtain sleeping accommodation, with or without meals;
- (i) "inspector" includes an inspector appointed under this Act, a deputy inspector or a member of the Nova Scotia Provincial Police;
- (j) "license" means a license granted to sell beer or liquor as provided by this Act;
- (k) "liquor" means and includes any alcohol, alcoholic, spirituous, vinous, fermented malt or other intoxicating liquor or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise intoxicating and all drinks or drinkable liquids and all preparations or mixtures, whether liquid or solid, capable of human consumption which are intoxicating, and any compound, mixture or preparation whether in solid or liquid form to which the addition of water or any other liquid or any substance will produce intoxicating liquor;
- (l) "Minister" means the member of the Executive Council to whom for the time being is assigned the supervision of the administration of the Corporation;
- (m) "municipality" means a city, town or municipality;

(n) "Nova Scotia Provincial Police" includes the Royal Canadian Mounted Police, police officers appointed by a regional municipality, incorporated town or municipality of a county or district and the military police of the Canadian Armed forces;

(o) "occupant" includes the person in charge of a house, building or premises or under whose care they are, and a person apparently in charge thereof or exercising control or authority thereover;

(p) *repealed 2001, c. 4, s. 11.*

(q) "package" means any container, bottle, vessel or other receptacle used for holding liquor;

(r) "permit" means a permit issued by the Corporation for the purchase, storage, manufacture or transfer of liquor;

(s) "physician" means a legally qualified medical practitioner registered under the *Medical Act*;

(t) "prescription" means a memorandum in the form prescribed by the regulations, signed by a physician, and given by him to a patient for the purpose of obtaining liquor pursuant to this Act for use for medicinal purposes only;

(ta) "President" means the President of the Corporation appointed pursuant to this Act;

(u) "Provincial Police" means the Nova Scotia Provincial Police;

(v) "public place" means and includes any place, building or convenience to which the public has, or is permitted to have, access, and any highway, street, lane, park or place of public resort or amusement;

(w) "regulations" means the regulations made by the Governor in Council or made by the Corporation and approved by the Governor in Council under this Act;

(x) "residence" means

(i) any building, part of a building, tent, mobile home, trailer, ship, yacht or boat where a person resides, including lands appurtenant and adjacent thereto that are essential or appropriate for the private use, occupation and enjoyment thereof, but does not include

(A) part of a hotel or club other than a private guest room,

(B) a mobile home or trailer being operated on a highway or stopped within the highway right of way, and

- (ii) such other areas, places or properties as are designated by the regulations as a residence;
- (xa) "Review Board" means the Nova Scotia Utility and Review Board;
- (y) "sale" or "sell" includes exchange, barter and traffic and also includes the selling or supplying or distribution, by any means whatsoever of liquor or of any liquor known or described as "beer" or "light beer" by any partnership, or by any society, association or club, whether incorporated or unincorporated, and whether heretofore or hereafter formed or incorporated, to any partnership, society, association or club or to any member thereof;
- (z) "veterinarian" means a person authorized to practise veterinary science in the Province under the *Veterinary Medical Act*;
- (aa) "wine" means and includes any alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits, including grapes, apples, *etcetera*, or other agricultural products containing sugar, including honey, milk, *etcetera*. R.S., c. 260, s. 2; 2000, c. 28, s. 69; 2001, c. 4, ss. 11, 29; 2002, c. 30, s. 10.

### **Division of Act**

**3** It is expressly declared that the division of this Act into Parts is for convenience only. R.S., c. 260, s. 3.

## **PART I**

### **ADMINISTRATION OF THIS ACT,**

### **CREATION OF COMMISSION**

### **AND ITS POWERS AND FUNCTIONS**

### **Commission continued as Corporation**

**4 (1)** The Nova Scotia Liquor Commission is continued as a body corporate under the name the "Nova Scotia Liquor Corporation" consisting of those persons who from time to time comprise the Board of Directors.

**(2)** The Corporation is, for all purposes of this Act, an agent of Her Majesty in right of the Province.

**(3)** The objects of the Corporation are the

(a) promotion of social objectives regarding responsible drinking;

(b) promotion of industrial or economic objectives regarding the beverage alcohol industry in the Province;

(c) attainment of suitable financial revenues to government; and

(d) attainment of acceptable levels of customer service.

(4) The Corporation may contract in its corporate name without specific reference to Her Majesty.

(5) The Corporation shall have a corporate seal that it may alter or change at pleasure.  
2001, c. 4, s. 12.

### **Powers of natural person**

5 Subject to this Act, the Corporation has the capacity, rights, powers and privileges of a natural person to do anything that the Corporation considers necessary or convenient for, or incidental or conducive to, the carrying out of its objects and has the same powers and capacity as a company under subsection (4) of Section 26 of the *Companies Act*. 2001, c. 4, s. 12.

### **Companies Act applies**

6 The *Companies Act* applies to the Corporation so far as it is not inconsistent with this Act. 2001, c. 4, s. 12.

### **Board of Directors**

7 (1) The affairs of the Corporation shall be administered by a Board of nine directors,

(a) seven of whom shall be appointed by the Governor in Council to hold office for a term of not less than two years and not more than five years;

(b) one of whom shall be a deputy minister appointed from time to time by the Governor in Council, and who shall not be a voting member; and

(c) one of whom is the President appointed pursuant to Section 7C, and who is not a voting member.

(2) The Board of Directors is responsible for ensuring that the affairs of the Corporation are administered on a commercial basis and that all decisions and actions of the Board are based on sound business practices in accordance with the objects of the Corporation.

(3) The members of the Board of Directors are directors of the Corporation within the meaning of the *Companies Act* except where inconsistent with this Act.

(4) The Governor in Council shall appoint one of the members of the Board of Directors to be the Chair of the Board who shall hold office for a term to be fixed by the Governor in Council, such term of office not to be less than two years and not to exceed five years.

(5) Notwithstanding clause (a) of subsection (1), on the initial appointment of the members of the Board, the members of the Board appointed pursuant to that clause shall be appointed to hold office for the following terms:

- (a) two members for a term of two years;
- (b) two members for a term of three years;
- (c) two members for a term of four years; and
- (d) one member for a term of five years.

(6) The Chair and each member of the Board of Directors appointed pursuant to clause (a) of subsection (1) shall enjoy tenure during the term of their appointment but may be removed at any time for misbehaviour, incapacity or inability to perform their duties properly by the Governor in Council.

(7) Each member of the Board of Directors appointed pursuant to clause (a) of subsection (1) shall remain in office, notwithstanding the expiry of the member's term, until re-appointed or replaced and, when a vacancy occurs on the Board, the Governor in Council may appoint a person to fill the vacancy for the balance of the term of the member of the Board replaced.

(8) A vacancy on the Board of Directors does not impair the capacity of the Board to act. 2001, c. 4, s. 12.

### **Salaries and allowances**

**7A (1)** The Chair and other members of the Board of Directors are entitled to be paid such salaries and allowances as are fixed by the by-laws of the Corporation.

(2) Each member of the Board of Directors is entitled to be paid such travelling and living expenses incurred by the member in the performance of the member's duties as are fixed by the by-laws of the Corporation. 2001, c. 4, s. 12.

### **Quorum**

**7B (1)** Four voting members of the Board of Directors constitute a quorum.

(2) The President and the deputy minister appointed pursuant to subsection (1) of Section 7 are not to be included as members of the Board of Directors in determining a quorum of the Board.

(3) Where a member of the Board of Directors is absent from the member's duties for a period in excess of three months or becomes incapacitated or disabled and is unable to act by reason of such absence, illness, infirmity, incapacity or inability, the Governor in

Council may appoint a person to act in the member's stead during the period that the member is absent or incapacitated and the person appointed while so acting may discharge all the duties and has all the rights and powers of a director.

(4) The affirmative votes of a majority of the members present at a meeting of the Board of Directors at which a quorum is present are sufficient to pass any resolution that the Board is competent to make.

(5) Subject to this Act, the Board of Directors may make by-laws for the management of the property, effects, affairs and business of the Corporation or relating to any other thing that may be necessary for carrying out the purposes of the Corporation and for the exercise of any other powers of the Corporation incidental thereto.

(6) There shall be minutes taken of the meetings of the Board of Directors, which must be approved by the Board and certified to be correct by the Chair.

(7) A copy of the minutes of each meeting of the Board of Directors, certified to be correct by the Chair, shall be submitted to the Minister after each meeting of the Board.  
2001, c. 4, s. 12.

### **President of Corporation**

**7C (1)** The Governor in Council shall, by order and upon the recommendation of the Minister, appoint a President of the Corporation who shall be selected on merit and in accordance with the fair-hiring practices of the Province.

(2) The President is the Chief Executive Officer of the Corporation and is charged with the general direction, supervision and control of the business of the Corporation, and may exercise such other powers as may be conferred on the President by the by-laws of the Corporation or the Minister.

(3) The President shall devote the President's whole time and attention to the performance of the President's functions for the Corporation and shall follow no other occupation.

(4) The President is accountable to the Minister and reports to the Board of Directors.  
2001, c. 4, s. 12.

### **Appointment of employees**

**7D (1)** The employees of the Corporation are to be appointed in accordance with the by-laws of the Corporation.

(2) The remuneration and other conditions of employment of the employees are to be established by the by-laws of the Corporation.

(3) The *Public Service Superannuation Act* applies to the President and all employees of the Corporation. 2001, c. 4, s. 12.

## **Members and Public Employees Disclosure Act**

**7E** The Corporation is a department for the purpose of the definition of "department" in the *Members and Public Employees Disclosure Act* and, for greater certainty, Part III of that Act applies to the members of the Board. 2001, c. 4, s. 12.

### **Disqualification**

**7F** A person is not eligible to be appointed or to continue as President or a member of the Board of Directors if the person is not a Canadian citizen, ordinarily resident in the Province or, directly or indirectly, as owner, shareholder, director, officer, partner or otherwise, is in a position of conflict of interest under conflict of interest rules established in the regulations. 2001, c. 4, s. 12.

### **Fiscal year**

**7G** The fiscal year of the Corporation ends on the thirty-first day of March in each year or such other time as may be prescribed by the Governor in Council. 2001, c. 4, s. 12.

### **By-laws and regulations**

**7H (1)** The making of by-laws of the Corporation by the Board of Directors is subject to the approval of the Governor in Council.

**(2)** The Governor in Council may make regulations respecting any matter in respect of which the Board of Directors may make by-laws and, where there is a conflict between the regulations and a by-law made by the Board of Directors, the regulations made pursuant to this Section prevail.

**(3)** The Governor in Council may make regulations establishing and respecting the operation of a consultation committee composed of members appointed by the Minister who, by virtue of their experience, are considered by the Minister to be appropriate to provide, at the request of the Board of Directors or the Minister, advice on any matter relating to the objects or operations of the Corporation.

**(4)** The Governor in Council may make regulations respecting conflict of interest rules governing the President and members of the Board of Directors. 2001, c. 4, s. 12.

**8 and 9** *repealed 2000, c. 28, s. 70.*

**10 and 11** *repealed 2001, c. 4, s. 12.*

### **Duties and powers of Corporation**

**12** It shall be the duty of the Corporation and it shall have power to

- (a) buy, import, have in its possession and sell liquor and merchandise for the purpose of this Act;
- (b) control the possession, sale, transportation and delivery of liquor in accordance with this Act and the regulations;
- (c) determine, subject to the approval of the Governor in Council, the municipalities within which liquor may be sold;
- (d) make provision for the maintenance or operation of warehouses for beer or liquor and control or regulate the keeping in and delivery to or from any such warehouses;
- (e) lease as tenant any land or building required for the purposes of this Act;
- (f) subject to the approval of the Governor in Council, lease as landlord, sublet, assign or sell any land, building or other property or any part thereof owned or leased by the Corporation;
- (g) purchase or lease or acquire the use by any manner whatsoever of any plant, as approved by the Governor in Council, which may be considered necessary or useful in carrying into effect the object and purposes of this Act;
- (h) purchase or lease or acquire the use by any manner whatsoever of any equipment which may be considered necessary or useful in carrying into effect the object and purposes of this Act;
- (i) engage the services of experts and persons engaged in the practice of any profession where it is deemed expedient;
- (j) appoint officials to issue and grant licenses and permits under this Act;
- (k) prescribe the days and hours when Government stores or agency stores or any of them may be open;
- (l) control and supervise the advertising, promotion and marketing methods and procedures of manufacturers, distributors, agents and their representatives;
- (m) determine the classes, varieties and brands of liquor to be kept for sale at Government stores and maintain standards therefor;
- (n) issue permits in accordance with this Act and the regulations;
- (o) determine the nature, form and capacity of all packages to be used for containing liquor to be kept or sold and their use;

- (p) determine, subject to the approval of the Governor in Council, the classes of permits and the terms and conditions thereof;
- (q) prescribe regulations for governing the possession and use of liquor, beer and wine by liquor, beer and wine societies;
- (r) provide for sampling and tasting rooms and to determine terms and conditions upon which liquor may be consumed therein;
- (s) examine the books of a brewer, distiller, vintner or other person required to make a return under this Act for the purpose of verifying the accuracy of the return;
- (t) without in any way limiting or being limited by the foregoing clauses, generally do all such things as may be deemed necessary or advisable by the Corporation for the purpose of carrying into effect the purpose and intent of this Act or of the regulations. R.S., c. 260, s. 12; 2001, c. 4, ss. 13, 29.

### **Dealing in bottles by Corporation**

**13** The Corporation may acquire, buy, sell and deal in empty bottles of a type in which liquor is or has been sold by the Corporation. R.S., c. 260, s. 13; 2001, c. 4, s. 29.

### **Duties of Minister of Environment and Labour**

**14 (1)** The Minister of Environment and Labour shall

- (a) inspect licensed premises;
- (b) determine the nature, form and capacity of all containers used for containing liquor to be kept or sold in licensed premises;
- (c) perform such other duties as may be required by this Act or the regulations; and
- (d) in general, do or refrain from doing anything the Minister of Environment and Labour considers necessary or advisable to carry out the purpose and intent of this Act and the regulations.

**(2)** The Minister of Environment and Labour may delegate in writing to any person or class of persons any of the powers, duties or functions of the Minister of Environment and Labour pursuant to this Act and shall, when so delegating, specify the powers, duties and functions to be exercised by the person or class of persons and any conditions imposed on the exercise of the powers or performance of the duties or functions. 2000, c. 28, s. 71.

### **Regulations**

**15** The Corporation, with the approval of the Governor in Council, may make such regulations as the Corporation may deem necessary for carrying out the purpose and intent of this Act and for the efficient administration thereof, and for prescribing the fees payable in respect of licenses and permits issued, and for anything done or permitted to be done under this Act or the regulations for which no fees are prescribed in this Act, and such regulations shall be published in the Royal Gazette, and upon being so published shall have the same force and effect as if enacted in this Act, and any such regulations may be repealed, altered or amended from time to time by the Corporation, subject to like approval and the publication of the alteration, repeal or amendment in the manner aforesaid. R.S., c. 260, s. 15; 2001, c. 4, s. 29.

**16 and 17** repealed 2001, c. 4, s. 14.

OWNERSHIP OF PROPERTY ACQUIRED  
BY THE CORPORATION, FINANCING AND  
ACCOUNTING BY THE CORPORATION  
AND APPLICATION OF PROFITS

**18** repealed 2001, c. 4, s. 14.

**Proceeds of sale of liquor**

**19 (1)** All money received from the sale of liquor in Government stores, the revenue from agency stores and money otherwise accruing in the administration of this Act is to be paid to the Corporation.

**(2)** All property, whether real or personal, all money acquired, administered, possessed or received by the Corporation and all profits earned in the administration of this Act are vested in the Corporation as agent of Her Majesty in right of the Province and may be dealt with, leased, sold or otherwise disposed of by the Corporation in its corporate name.

**(3)** The Corporation shall maintain in its own name one or more accounts in any chartered bank designated by the Minister of Finance.

**(4)** Notwithstanding the *Provincial Finance Act*, all money received by the Corporation through the conduct of its operations or otherwise is to be deposited to the credit of the accounts established pursuant to subsection (3) and shall be administered by the Corporation exclusively in the exercise and performance of its powers, duties and functions.

**(5)** The Corporation shall pay all salaries of the members of the Board of Directors, its employees and all expenditures incurred by the Corporation in operating its business.  
2001, c. 4, s. 15.

## **Annual budget**

**20 (1)** The Board of Directors shall, before the thirty-first day of January in each year, prepare and submit to the Minister a budget containing estimates of the amounts required for working capital and for capital expenditures required during the next year for the purposes of the Corporation and forecasting the estimated net profit of the Corporation for the next year.

**(2)** Where in any fiscal year it appears that the actual revenue or expenditure of the Corporation is likely to be substantially greater or less than estimated in its budget, the Board of Directors shall submit to the Minister a revised budget containing the particulars required under subsection (1).

**(3)** All outlays and expenditures of a capital nature in excess of fifty thousand dollars over approved total capital spending outlined in the budget for the fiscal year shall be approved in advance by the Minister.

**(4)** The Board shall submit to the Minister, at such times as the Minister may prescribe, reports setting out the net profit and net profit forecasts of the Corporation and such reports shall contain such information as the Minister may prescribe. 2001, c. 4, s. 15.

## **Five-year strategic plan**

**21** On or before the thirty-first day of January, 2002, the Corporation shall submit to the Minister for approval a five-year strategic plan, including estimates of budgetary requirements for the operation of the Corporation, and including a detailed business plan for the fiscal year ending the thirty-first day of March, 2002. 2001, c. 4, s. 15.

## **Detailed business plans**

**22** On or before the thirty-first day of January, 2003, and annually thereafter if required by the Minister, the Corporation shall submit to the Minister for approval a detailed business plan for the following fiscal year, including estimates of budgetary requirements. 2001, c. 4, s. 15.

## **Evaluation of activities**

**23 (1)** Within six months after the fiscal year ending the thirty-first day of March, 2006, and every fifth year thereafter, the Corporation shall submit to the Minister a detailed evaluation of its activities showing how results of its operations compare and contrast with the five-year strategic plan referred to in Section 21, and including any recommendations for changes to the objects, powers, duties and functions of the Corporation or the Board of Directors.

(2) At the time it submits an evaluation referred to in subsection (1), the Corporation shall also submit to the Minister for approval a five-year strategic plan, including estimates of budgetary requirements for the operation of the Corporation. 2001, c. 4, s. 15.

### **Borrowing power**

**24 (1)** The Corporation may, with the approval of the Minister of Finance, borrow money from and make arrangements with any chartered bank for loans or money overdrafts with such times of repayment as the Corporation considers advisable and necessary and may mortgage the lands and other assets of the Corporation to secure such loans.

(2) The Governor in Council may from time to time and on such terms and conditions as the Governor in Council considers expedient, authorize the guarantee by the Minister of Finance, on behalf of Her Majesty in right of the Province, of the repayment of all money borrowed by the Corporation under this Section, and such guarantee, when given, renders Her Majesty in right of the Province liable for the repayment of the money so borrowed, and is conclusive evidence of the liability of the Province.

(3) The Minister of Finance may advance out of the Consolidated Fund of the Province such sums as may be necessary for the purpose of discharging, in whole or in part, all or any liabilities of the Corporation or guarantees, and all sums so advanced are to be repaid by the Corporation in such amounts and at such times as the Minister of Finance may decide and, until paid, bear interest, for credit to the Consolidated Fund, at such rate as may be determined by the Minister. 2001, c. 4, s. 15.

### **Audited annual statements**

**25 (1)** The Corporation shall prepare audited financial statements and submit them to the Minister in each year at such time as may be prescribed by the Minister.

(2) The accounts of the Corporation shall show the gross income arising from the sale of liquor.

(3) All books or records of accounts, bank books and other documentation of the Corporation shall at all times be open to the inspection of the Minister or such other person as the Minister may designate.

(4) The Governor in Council may request the Auditor General or any other person to audit the accounts of the Corporation and a report of the audit containing such particulars as the Governor in Council may require shall be made to the Governor in Council on or before the first day of August next following the close of the fiscal year for which the report is made. 2001, c. 4, s. 15.

### **Reserve fund**

**25A (1)** From the profits arising under this Act, as certified by the Minister of Finance, there shall be taken such sums as may be determined by the Governor in Council for the creation of a reserve fund to repay moneys borrowed under Section 24.

**(2)** The net profits remaining from time to time after providing the sums required for purposes of the reserve fund, are to be paid into the Consolidated Fund of the Province in the manner and at the times prescribed by the Minister of Finance. 2001, c. 4, s. 15.

### **Report to House of Assembly**

**25B** The Corporation shall, within five months after the termination of its fiscal year, submit to the Minister an audited report, in such form as the Minister may direct, on the operations of the Corporation for that fiscal year, and the Minister shall lay the report before the House of Assembly, if it is then sitting, or, if not, at the next sitting. 2001, c. 4, s. 15.

### **Monthly audit of receipts**

**26** The receipts of the Corporation from all sources shall be checked and audited at least once in every calendar month by the Minister of Finance or an officer of his Department designated by him for that purpose. R.S., c. 260, s. 26; 2001, c. 4, s. 29.

### **Money paid to Consolidated Fund**

**27** Every sum of money collected by the Corporation, which the Minister of Finance considers available, shall, on demand, be handed over to him, and every such sum of money, after it is so handed over, shall form part of the Consolidated Fund. R.S., c. 260, s. 27; 2001, c. 4, s. 29.

### **Authority to administer oath**

**28** Every store manager and every official authorized by the Corporation to issue permits under this Act may administer any oath and take and receive any evidence or declaration required under this Act or the regulations. R.S., c. 260, s. 28; 2001, c. 4, s. 29.

### **Consent of Attorney General required**

**29 (1)** Except with the consent of the Attorney General, no action or proceeding shall be taken against any member or members or against any official or store manager of the Corporation or against any other officer for anything done or omitted to be done in or arising out of the performance of his or their duties under this Act.

**(2)** Every action, order or decision of the Corporation as to any matter or thing in respect of which any power, authority or discretion is conferred on the Corporation under this Act shall be final and shall not be questioned, reviewed or restrained by injunction, prohibition or *mandamus* or other process or proceeding in any court or be removed by *certiorari* or otherwise in any court. R.S., c. 260, s. 29; 2001, c. 4, ss. 16, 29.

### **Proceedings by or against Corporation**

**30** The Corporation may, with the consent of the Attorney General, be sued and may institute or defend proceedings in any court of law or otherwise in the name of The Nova Scotia Liquor Corporation as fully and effectually to all intents and purposes as though the Corporation were incorporated under such name or title and no proceedings shall be taken against or in the names of the members of the Corporation, and no proceedings shall abate by reason of any change in the membership of the Corporation by death, resignation or otherwise, but the proceedings may be continued as though the changes had not been made. R.S., c. 260, s. 30; 2001, c. 4, s. 29.

### **Appointment of inspectors and employees**

**31** Such inspectors and employees, other than employees of the Corporation, as are necessary for the administration of this Act shall be appointed in accordance with the *Civil Service Act*. 2000, c. 28, s. 73; 2001, c. 4, s. 17.

### **Payment to Minister of Finance**

**32** All money collected by the Review Board pursuant to this Act or the regulations shall be handed over to the Minister of Finance and, after it is handed over, shall form part of the Consolidated Fund of the Province. 2000, c. 28, s. 73.

**33 to 39** *repealed 2000, c. 28, s. 73.*

### **Security from holder of license or permit**

**40** Subject to the regulations, the Corporation or the Minister of Environment and Labour may require the holder of any license or permit for the sale of liquor to give such security and to comply with such other provisions as the Corporation or the Minister of Environment and Labour may deem necessary or desirable in order to secure the due observance of this Act. R.S., c. 260, s. 40; 2000, c. 28, s. 74; 2001, c. 4, s. 29.

**41** *repealed 2000, c. 28, s. 75.*

## **PART II**

### **SALES OF LIQUOR**

#### **Sale of liquor**

**42 (1)** Subject to this Act, liquor may be sold in such manner and at such prices as the Corporation may by the regulations prescribe.

(2) Subject to this Act, the Corporation may establish, maintain and operate at such places throughout the Province as it may deem advisable, stores for the sale of liquor in accordance with this Act.

(3) Subject to the approval of the Governor in Council, the Corporation may establish, maintain and operate at such places throughout the Province as it may deem advisable, duty-free liquor stores for the purpose of selling liquor for consumption outside Canada to persons who are leaving Canada directly from a place in the Province and are eligible to purchase liquor under this Act.

(4) The Corporation may by by-law, subject to the approval of the Governor in Council, permit the operation of agency stores, at such places throughout the Province and on such terms as it considers advisable, by private operators, for the sale of liquor in accordance with this Act. R.S., c. 260, s. 42; 2001, c. 4, ss. 18, 29.

### **Plebiscite respecting Corporation store**

**43 (1)** When the Chief Electoral Officer receives

(a) a copy of a resolution of the council of a municipality; or

(b) a petition of at least twenty per cent of the resident electors of a municipality,

requesting that a vote of the resident electors of the municipality be taken on the question of the operation by the Corporation of a store for the sale of liquor in the municipality the Chief Electoral Officer may, subject to Section 46, take a vote of those electors in the manner prescribed in this Act and the regulations.

(2) Notwithstanding subsection (1), the Chief Electoral Officer may at the request of any person designate as a "voting area" any area comprised of a municipal polling district or districts or combination of municipal polling districts, a town, a city or any combination of these units.

(3) Where a designation is made pursuant to subsection (2) and the Chief Electoral Officer receives a petition of at least twenty per cent of the resident electors of the voting area, the Chief Electoral Officer may take a vote of the electors in the voting area in the manner prescribed in subsection (1).

(4) Sections 43, 44, 45 and 46 apply *mutatis mutandis* to the taking of a vote of the electors in a voting area and the effect thereof.

(5) Where a vote is taken under this Section, the ballot paper shall contain the following words:

Are you in favour of the sale of liquor in Yes

your municipality in accordance with

the *Liquor Control Act*? No

(6) Where a vote of the electors is to be taken in accordance with this Section, the following provisions shall apply:

(a) the voting upon the question of the proposed sale shall be by ballot on a day fixed by the Chief Electoral Officer and notice of the time and place of the voting shall be given by a notice conspicuously posted in several public places in the municipality and by advertisement in a newspaper published in the municipality, or if no newspaper is published therein, in a newspaper having general circulation in the municipality and by such other media as the Chief Electoral Officer may determine;

(b) the Chief Electoral Officer shall cause the notice to be published and the voting on such question shall be in accordance with the regulations;

(c) the Chief Electoral Officer shall provide, or cause to be provided, a suitable place or places in the municipality or in each district or ward, as the case may be, in which the vote upon the question may be taken and shall appoint one or more officers to receive and conduct the vote in such places and any officer so appointed shall have the same powers and privileges as the corresponding officers in the case of an election for a member of the House of Assembly and generally the provisions of Sections 124 to 127 and Sections 198 to 218 of the *Elections Act* apply *mutatis mutandis* in so far as applicable.

(7) The officers appointed to receive and conduct the vote shall immediately after the close of the poll proceed to open the ballot boxes and, in the presence of the clerk at the poll and of at least three electors, to add together the number of votes in favour of the question submitted and the number of votes against the question submitted and shall make a return to the Chief Electoral Officer in such form and in such manner as may be prescribed by the regulations.

(8) The Chief Electoral Officer may make a tariff of fees, costs, allowances and expenses to be paid and allowed to persons appointed to conduct and receive the vote, of other persons employed at or with respect to the taking of the vote and may from time to time revise and amend the tariff.

(9) The fees, costs, allowances and expenses shall be paid by the Corporation.

(10) Subject to the approval of the Governor in Council, the Corporation shall give such directions and make such regulations and prepare such forms as may appear to be necessary or convenient for carrying out this Section and for the guidance of the Chief Electoral Officer and other officers or persons employed in the taking of a vote and may apply, modify or alter any of the provisions of the *Elections Act* and may make due provision for circumstances which may arise and which are not otherwise provided for.

(11) Subject to Section 45, the forms to be used at the taking of a vote upon the question and the procedure with respect to voting and other matters shall be the same as nearly as

may be as in the case of an election of a member to the House of Assembly but such forms and procedure may be modified and altered to such extent as may be deemed necessary. R.S., c. 260, s. 43; 2001, c. 4, ss. 19, 29.

### **Enumeration and entitlement to vote**

**44 (1)** An enumeration shall be conducted in the voting area and persons entitled to vote shall be the electors named on the official list of electors prepared for the vote, and other persons permitted to vote in accordance with this Section.

**(2)** The person conducting the vote shall appoint one enumerator for each polling division unless the Chief Electoral Officer directs that additional enumerators shall be appointed.

**(3)** The enumeration shall be conducted in accordance with the *Elections Act* as it may be modified or altered by the Chief Electoral Officer in the circumstances.

**(4)** A person whose name is not on the official list of electors shall be permitted to vote on ordinary polling day following the procedure in the *Elections Act* as modified or altered by the Chief Electoral Officer in the circumstances. R.S., c. 260, s. 44; 2001, c. 4, s. 20.

### **Elections Act**

**45 (1)** Except as otherwise provided by Section 43 or 44 or the regulations, the provisions of the *Elections Act* respecting

(a) the time and manner of holding the poll;

(b) the holding of advance polls;

(c) the secrecy of voting;

(d) the forms to be used and the oaths to be administered;

(e) the powers and duties of persons acting as returning officers, deputy returning officers and poll clerks,

and all the provisions relating to corrupt practices, illegal acts, offences and penalties and their prosecutions shall apply to the taking of a vote by or under the direction of the Corporation.

**(2)** Notwithstanding the provisions of this Act or the regulations, only persons of the full age of nineteen years shall be eligible to vote where a vote is taken pursuant to this Act.

**(3)** Notwithstanding the provisions of this Act or the regulations, ballot papers shall be marked by electors in accordance with the provisions of the *Elections Act*.

(4) Any qualified elector may petition for a judicial recount.

(5) The person conducting the vote may petition for a recount where he has reasonable and probable grounds to believe that votes were conducted improperly.

(6) The *Controverted Elections Act* applies *mutatis mutandis* to the taking of a vote by or under the direction of the Corporation.

(7) Notwithstanding the provisions of this Act, where the *Elections Act* is amended during the conduct of a vote, the amendments do not apply to the conduct of that vote. R.S., c. 260, s. 45; 2001, c. 4, s. 29.

### **Effect of vote**

**46 (1)** Where a majority of the electors who vote on a question pursuant to Sections 43 to 45 or have voted on a question pursuant to Section 30 of Chapter 155 of the Revised Statutes, 1954, as that Section provided before the coming into force of Chapter 35 of the Acts of 1961,

(a) vote or have voted in the affirmative, the Corporation may sell liquor in the municipality in such manner and at such prices as the Corporation by regulation prescribes and at such places as the Corporation deems advisable;

(b) vote or have voted in the negative, the Corporation shall not establish a store for the sale of liquor in the municipality after the taking of the vote unless an affirmative vote has been given on another vote taken pursuant to Sections 43 to 45.

(2) The Corporation shall not establish a store for the sale of liquor in any municipality in which at the vote taken in the year 1929 under the *Plebiscite Act, 1929*, there was a majority of votes cast against the sale of liquor under a government control Act, unless on a question pursuant to Sections 43 to 45 or pursuant to Section 30 of Chapter 155 of the Revised Statutes, 1954, as that Section provided before the coming into force of Chapter 35 of the Acts of 1961, a majority, of the electors who voted, voted in the affirmative.

(3) Where a vote has been taken in a municipality pursuant to Sections 43 to 45 or pursuant to Section 30 of Chapter 155 of the Revised Statutes, 1954, as that Section provided before the coming into force of Chapter 35 of the Acts of 1961, no further or other vote shall again be taken until a period of five years has elapsed from the taking of the vote and a request for a vote has been made to the Corporation in accordance with Section 43. R.S., c. 260, s. 46; 2001, c. 4, s. 29.

### **Duties of Review Board**

**46A** The Review Board shall

(a) license premises for the sale of liquor for consumption on the premises;

- (b) hold public hearings for any reason the Review Board considers sufficient;
- (c) subpoena, swear and examine witnesses in any matter or hearing if the Review Board determines that such action is necessary; and
- (d) perform such other duties as may be required by this Act or the regulations. 2000, c. 28, s. 76.

### **Issuance of liquor license**

**47 (1)** Subject to this Act, but otherwise in its discretion, the Review Board may grant licenses to sell liquor in accordance with the terms and conditions of the license and the provisions of this Act and the regulations.

**(2)** The holder of a license granted pursuant to this Act and which is in force may have and sell liquor on the premises in respect of which such license is in effect for consumption on those premises and subject to the terms and conditions of the license and the provisions of this Act and the regulations.

**(3)** The Review Board may, in its discretion and for any reason it deems sufficient, suspend any license granted pursuant to this Act.

**(4)** The Review Board may, in the manner prescribed by the regulations, for any cause cancel any license granted pursuant to this Act and thereupon all rights and privileges of the person named in the license by or under this Act shall be cancelled. R.S., c. 260, s. 47; 2000, c. 28, s. 77.

### **Classes of license**

**48 (1)** Subject to the regulations, a license may be one of the following classes and no other:

- (a) club license - that shall permit the licensee to have and dispense liquor;
- (b) tavern license - that shall permit the sale of beer by the glass or open bottle;
- (c) beverage room license - that shall permit the sale of beer and wine by the glass, open bottle or other container;
- (d) eating establishment license - that shall permit the sale of liquor by the glass and beer and wine by the glass, open bottle or other container with meals or otherwise as specified in the license;
- (e) lounge license - that shall permit the sale of liquor by the glass and beer and wine by the open bottle, glass or other container;

(f) cabaret license - that shall permit the sale of liquor by the glass and beer and wine by the glass, open bottle or other container;

(g) special premise license - that shall permit the sale of liquor by the glass and beer and wine by the glass, open bottle or other container, or any of them as specified in the license for a specific period of time or at specific times;

(h) special occasion license - that may permit the sale or other disposition of liquor by the glass and beer and wine by the glass, open bottle or other container, for a specific period of time or at specific times.

**(2)** Subject to this Act and the regulations, any one or more of the several classes of license may be issued to any person.

**(3)** A license may only be granted to

(a) a person who is nineteen or more years of age, a permanent resident of Canada or a Canadian citizen by birth or naturalization and, in the opinion of the Review Board, of good character and reputation;

(b) a partnership, each of the members of which is qualified as provided in clause (a);

(c) a corporation authorized to carry on business in the Province whose officer, agent or manager in charge of the premises for which the license is issued is personally qualified as provided in clause (a);

(d) a club or association whose officers, agents, stewards or other persons at any time in charge of the premises for which the license is issued are personally qualified as provided in clause (a);

(e) a railway company operating in the Province and providing meals on its passenger train service;

(f) a company operating an airline and providing regularly-scheduled passenger service.

**(4)** The Review Board may prescribe for any type of license a ratio of food and liquor consumption on the premises in respect of which the license is issued.

**(5)** Subject to subsection (6), a beverage room license, eating establishment license or cabaret license may be issued only to an applicant who has had one year's experience in the successful operation of a restaurant, in the Province or elsewhere, or who has or will arrange to hire for the premises proposed to be licensed a manager or assistant with one year's experience in the successful operation of a restaurant in the Province or elsewhere.

**(6)** An eating establishment license may be issued to a railway company that provides meals on its passenger-train service.

(7) A lounge license may be issued only to the holder of an eating establishment license.

(8) Notwithstanding subsection (7), a lounge license may be issued to a company operating an airline and providing regularly-scheduled passenger service which license shall permit the sale of liquor by the glass and of beer and wine by the glass or open bottle on passenger-carrying flights operated by the company.

(9) A special occasion license may be issued by the Minister of Environment and Labour in or in respect of any place in the Province. R.S., c. 260, s. 48; 2000, c. 28, s. 78.

### **Designation of licensing area**

**49 (1)** The Minister of Environment and Labour may designate as a "licensing area" any area comprised of a municipal polling district or combination of municipal polling districts, a town, a city, a village to which the *Municipal Government Act* applies, or any combination of these units, and when an application is received by the Minister of Environment and Labour for a tavern license, beverage room license, cabaret license or lounge license, the Minister of Environment and Labour shall immediately designate a licensing area including the locality where the premises in respect of which the license is applied for are situated, unless such premises are situated within a previously designated licensing area.

(2) Upon the initial designation of a licensing area the Minister of Environment and Labour shall forthwith publish a notice by advertisement in one or more newspapers circulating in the licensing area and by such other media as the Minister of Environment and Labour may determine setting out the description of the licensing area, and

(a) if the licensing area corresponds with or is entirely contained within a municipality in which on the twenty-fourth day of March, 1961, a tavern license, hotel tavern license or hotel dining room license was in effect, that the Review Board will proceed to consider the application after a date specified in the notice; or

(b) in any other licensing area that the Review Board will not consider the application,

unless before a date to be specified in the notice

(c) the council of a municipality, town or city in which any part of the licensing area is included; or

(d) twenty per cent of the electors in the licensing area,

request that a vote be taken in the licensing area on the question "Are you in favour of the sale of liquor for consumption on licensed premises?".

(3) If a request provided for in subsection (2) is received by the Minister of Environment and Labour within the time specified, the Minister of Environment and Labour shall

forthwith proceed to have a vote taken in the licensing area as nearly as may be in accordance with the procedure prescribed in Sections 43, 44 and 45 and the Minister of Environment and Labour shall have all the powers and shall perform all the functions which, under those Sections, the Corporation has or may perform, and the expenses incurred shall be paid by the Minister of Environment and Labour and Sections 43, 44 and 45 apply *mutatis mutandis* to the taking of a vote by the Minister of Environment and Labour.

(4) If no request pursuant to subsection (2) is received in respect of a licensing area referred to in clause (b) of that subsection or if on a vote or revote taken pursuant to subsection (3) a majority of the electors who vote on the question vote in the negative, the Review Board shall not consider an application for or grant or renew any tavern license, beverage room license, cabaret license or lounge license in respect of premises situated in the licensing area nor consider, nor grant nor renew a club license in respect of a club mentioned in subsection (13) situated in the licensing area unless at a subsequent vote a majority of electors who vote on the question vote in the affirmative.

(5) If no request pursuant to subsection (2) is received in respect of a licensing area referred to in clause (a) of that subsection or if on a vote or re-vote taken pursuant to subsection (3) a majority of the electors who vote on the question vote in the affirmative, the Review Board may proceed to consider applications and to grant or renew licenses in respect of premises situated in the licensing area in accordance with this Act and the regulations.

(6) Where no request pursuant to subsection (2) is received, or where a vote has been taken pursuant to subsection (3), a request for a vote may be made

(a) by the council of a municipality, town or city in which any part of the licensing area is included; or

(b) by twenty per cent of the electors in the licensing area,

but no such request shall be acted upon by the Minister of Environment and Labour unless there has elapsed a period of three years from the date on which a vote was last held pursuant to subsection (3) or, if no such vote has been held, a period of three years from the date on which the licensing area was designated.

(7) The Minister of Environment and Labour may designate as a licensing area an area that differs from an area that was previously designated by the Minister of Environment and Labour as a licensing area, but shall not include within a licensing area designated under this subsection a municipal polling district, a town or a city or a village to which the *Municipal Government Act* applies that was included within a licensing area in which a vote was taken within the immediately preceding three-year period.

(8) The Review Board shall not grant a tavern license, beverage room license, lounge license or cabaret license unless it has held a public hearing on the application and at least

three weeks' notice of the hearing has been given in one or more newspapers circulating in the licensing area in which are situate the premises in respect of which the license is sought, by an advertisement that states the time, place and purpose of the hearing and that any person may object to the application by attending the hearing or submitting any objections in writing to the Review Board at least five days prior to the hearing and, where such objections are submitted, the hearing shall be held in the licensing area in which the premises are situate in respect of which the license is sought.

**(9)** Notwithstanding the provisions of subsection (8), the Review Board may change a tavern license to a beverage room license without holding a further public hearing.

**(10)** The provisions of subsections (1) to (8) shall not apply to an application for or the granting of a license to a railway company, or a company operating an airline, or to a restaurant or hotel that is designated by the Review Board as a resort or to an application for a special premise license or to an application for an eating establishment license.

**(11)** The Review Board shall not designate a restaurant or hotel as a resort unless

(a) it maintains a high standard of appointments and services;

(b) it operates on a seasonal basis or promotes convention business or obtains a minor part of its business from the locality in which it is situated or its operation is of such a nature that, in the opinion of the Review Board, it should be so designated; and

(c) it complies with the regulations respecting resorts.

**(12)** The Review Board shall not grant an eating establishment license for premises in a place where no vote has been taken pursuant to this Section, or where the vote was in the negative, unless the Review Board has held a public hearing on the application and at least three weeks' notice of the hearing has been given in one or more newspapers circulating in the place where the premises are situate, by advertisement that states the time, place and purpose of the hearing and that any person may object to the application by attending the hearing or submitting any objection in writing to the Review Board at least five days prior to the hearing, and where such objections are submitted, the hearing shall be held in the area in which the premises are situate.

**(13)** The Minister of Environment and Labour may renew a club license to a club which, or an official of which, was on the fifteenth day of May, 1961, the holder of a permit pursuant to the regulations in effect immediately before that day, and with the approval of the Review Board may vary, add to or subtract from the terms and conditions on which such license is held or issued and shall require the holder to comply with such regulations as the Governor in Council may prescribe respecting club licenses.

**(14)** The Review Board may grant a club license to an official of a club, or to a club which was not the holder of a permit on the fifteenth day of May, 1961, but the provisions of subsections (1) to (8) shall apply in the same manner and to the same extent

as they apply to any of the types of license mentioned in subsection (2), and no license shall be granted to or in respect of a club which has not been in active operation for a period of not less than three years immediately preceding the application for a license. R.S., c. 260, s. 49; 2000, c. 28, s. 79; 2001, c. 4, s. 29.

### **Regulations by Governor in Council**

**50** The Governor in Council, may make regulations

- (a) providing for one or more classes of club licenses, tavern licenses, beverage room licenses, restaurant licenses, dining room licenses, lounge licenses, special occasion licenses, cabaret licenses, special premises licenses and waiters' licenses, and fixing the expiry dates thereof and the fees therefor;
- (b) providing for the cancellation or suspension of licenses;
- (c) prescribing terms, conditions or limitations in respect of licenses or any class thereof or of any license;
- (d) prescribing the standards for premises or the part thereof used in connection with the sale of liquor by the holders of licenses and the accommodation, equipment and facilities therein, and prescribing or prohibiting methods and practices in connection with the purchase, licensed sale, service or disposal of liquor;
- (e) respecting the powers of an inspector;
- (f) providing for the issuance of licenses and for renewals and transfers of licenses;
- (g) governing and providing for the issuance of licenses for special occasions and prescribing the special occasions for which licenses may be issued;
- (h) requiring the payment of fees in respect of applications for the issuance, renewal or transfer of licenses;
- (i) requiring the holders of licenses to provide the Minister of Environment and Labour with such information and returns respecting sales and respecting the premises, methods and practices connected therewith as may be prescribed and requiring any information provided to be verified by oath;
- (j) respecting rules for proceedings before the Review Board;
- (k) respecting the advertising of liquor and requiring the form of advertisement or public notice to be subject to the approval of the Minister of Environment and Labour;
- (l) prescribing the days and hours during which liquor may be sold or dispensed on licensed premises or any of them;

(m) in respect of any other matter or thing in order to give full effect to the terms, intent and purposes of this Act and to carry out the functions and duties and exercise the powers of the Minister of Environment and Labour and the Review Board;

(n) prescribing the form and manner of application for a license. R.S., c. 260, s. 50; 2000, c. 28, s. 80.

### **Store manager**

**51** The sale of liquor at each Government store shall be conducted by a person appointed under this Act to be known as a "store manager" who shall, under the directions of the Corporation, be responsible for the carrying out of this Act and the regulations, so far as they relate to the conduct of the store and the sale of liquor thereat. R.S., c. 260, s. 51; 2001, c. 4, s. 29.

### **Sale permitted**

**52** A store manager may sell to any person such liquor as that person is entitled to purchase in conformity with this Act and the regulations. R.S., c. 260, s. 52.

### **Consumption of liquor prohibited**

**53 (1)** No officer, clerk or servant of the Corporation employed in the Government store shall allow any liquor, except as otherwise provided in this Act or the regulations, to be consumed on the premises of a Government store nor shall any person consume any liquor on such premises.

**(2)** No operator or employee of an agency store shall allow any liquor to be consumed on the premises of an agency store nor shall any person consume any liquor on such premises, except as otherwise provided in this Act or the regulations. R.S., c. 260, s. 53; 2001, c. 4, ss. 21, 29.

### **Transportation of liquor**

**54 (1)** It is lawful to carry or convey liquor to a liquor store and to and from a warehouse or depot established, maintained or operated by the Corporation or controlled or regulated by the Corporation for the purposes of this Act.

**(2)** A common carrier or other person may, when permitted to do so by this Act or the regulations and in accordance therewith,

(a) carry or convey liquor sold at a Government store or warehouse;

(b) carry or convey liquor ordered or purchased by the Corporation; and

(c) carry or convey liquor to or from premises where the liquor may be lawfully kept and sold,

to a place to which it may be lawfully delivered under this Act or the regulations.

(3) No common carrier or any other person shall open or break or allow the opening or breaking of a package or vessel containing liquor, or drink or use or allow the drinking or use of any liquor therefrom while the liquor is being carried or conveyed.

(4) Subject to this Act and the regulations, whether or not the package or vessel containing liquor has been opened or the seal on the package or vessel is broken, a person who is permitted by law to possess and consume liquor within the Province and who for a lawful purpose

(a) purchased the liquor lawfully within the Province;

(b) brought the liquor, not exceeding a quantity determined by the regulations, lawfully into the Province; or

(c) received the liquor as a *bona fide* gift,

may carry or convey that liquor to his residence or to any residence in which he is permitted to possess, have or consume the liquor if he does not open the package or vessel or consume the liquor while carrying or conveying it.

(5) No person shall possess liquor in a motor vehicle unless the liquor is in a bottle, can or carton and the bottle, can or carton is in luggage, in a container or in a package which is placed in the vehicle where a person occupying the seat normally occupied by the driver cannot have access to it and provided that no person opens the package or vessel or consumes the liquor while carrying or conveying it. R.S., c. 260, s. 54; 2001, c. 4, ss. 22, 29.

## **Gift**

**55** A person may make or receive a *bona fide* gift of liquor if

(a) the donor is in lawful possession of the liquor;

(b) the gift is not for the promotion of a brand of liquor unless such a gift for promotional purposes is made in accordance with methods and procedures authorized by this Act;

(c) the donee is not a person who is prohibited from possessing or consuming liquor under this Act; and

(d) it does not exceed the quantity determined by the regulations. R.S., c. 260, s. 55.

## **Special permit**

**56 (1)** Notwithstanding anything contained in this Act, the Corporation may issue special permits respecting the manufacture, purchase, conveyance, consumption or sale of liquor.

(2) Upon application in the prescribed form being made to the Corporation or to any official authorized by the Corporation to issue permits accompanied by payment of the prescribed fee, and upon the Corporation or the official being satisfied that the applicant is entitled to a permit for the purchase of liquor under this Act, the Corporation or the official may issue to the applicant a permit of the class applied for, as follows:

(a) a special permit in the prescribed form may be granted to a druggist or to a person engaged within the Province in mechanical or manufacturing business, or in scientific pursuits, requiring liquor for use therein, entitling the applicant to purchase liquor for the purpose named in such special permit and in accordance with the terms and provisions of the special permit and in accordance with this Act and the regulations;

(b) a special permit in the prescribed form may be granted when authorized by the regulations, entitling the applicant to purchase liquor for the purpose named in the permit and in accordance with the terms and provisions of the permit, and of this Act and the regulations. R.S., c. 260, s. 56; 2001, c. 4, ss. 23, 29.

### **Expiration of permit**

**57** Unless sooner cancelled, every permit shall expire at midnight on the thirty-first day of December following the date on which the permit is issued except in the case of

(a) special permits issued under clause (b) of subsection (2) of Section 56, which shall expire in accordance with the terms contained therein;

(b) a permit which, according to its terms, sooner expires. R.S., c. 260, s. 57.

### **Permit not transferable**

**58** Every permit shall be issued in the name of the applicant therefor and no permit shall be transferable nor shall the holder of any permit allow any other person to use the permit. R.S., c. 260, s. 58.

### **Defacing permit prohibited**

**59 (1)** No person shall deface any permit issued by the Corporation or erase, obliterate, remove or alter any writing, stamp or other mark of whatsoever nature placed on any permit by the Corporation or by any of its store managers, officers, officials or agents.

(2) No person shall have in his possession a permit which has been defaced or a permit from or on which any writing, stamp or other mark placed thereon by the Corporation or by any of its store managers, officers, officials or agents has been erased, obliterated, removed or altered. R.S., c. 260, s. 59; 2001, c. 4, s. 29.

### **Manner of issuing permit**

**60** No permit shall be delivered to the applicant, until he has, if requested by the person issuing the permit, in the presence of some person duly authorized by the Corporation, or in the presence of the official to whom the application is made, written his signature thereon in the manner prescribed by the regulations for the purpose of his future identification as the holder thereof, and the signature has been attested by a member of the Corporation, or other official authorized to issue the same. R.S., c. 260, s. 60; 2001, c. 4, s. 29.

### **Special license for service personnel**

**61 (1)** In this Section, "service personnel" means members of the armed forces of Canada, members of the Royal Canadian Mounted Police, members of the Coast Guard and members of the merchant marine of Canada.

**(2)** Notwithstanding any other provision of this Act, the Review Board may, in its absolute discretion, issue a special license to any person who keeps or operates premises for the benefit of service personnel or for any class or classes of service personnel authorizing the person himself or by his servant or agent to purchase beer from the Corporation and to sell by the glass or by the bottle the beer so purchased for consumption by service personnel on the premises kept or maintained by the licensee and specified in the license and the beer may be consumed on the premises by any such service personnel.

**(3)** The Review Board may attach to any license such terms, conditions or restrictions as it deems expedient and it may, from time to time, by notice in writing vary, add or omit any such terms, conditions or restrictions.

**(4)** The Review Board may cause to be made an inspection of any premises in respect of which a license has been issued or applied for and may inquire into all matters whatsoever in connection with the operation of the premises.

**(5)** The Review Board may, in its absolute discretion, at any time revoke or suspend any license so issued.

**(6)** The Governor in Council may make regulations prescribing

(a) the form and manner of application for a special license;

(b) the fee to be paid for such license;

(c) the price or prices at which beer may be sold pursuant to such license;

(d) the terms and conditions on which any such license may be issued and, without limiting the generality of the foregoing, prescribing that no license shall be granted unless the licensee has been entered on the register kept pursuant to the *War Charities Act, 1939* (Canada). R.S., c. 260, s. 61; 2000, c. 28, s. 81; 2001, c. 4, s. 29.

### **Possession of liquor permitted**

**62 (1)** Except as otherwise provided by this Act or the regulations, liquor lawfully purchased from the Corporation by any person may and is hereby authorized to be kept, had, given and consumed in his residence.

**(2)** If the occupant of a residence or of any part thereof, including the rooms of any lodgers, boarders or tenants therein, or any member of the family of the occupant is convicted of keeping a disorderly house or of an offence against any of the provisions of this Act committed in or in respect of such residence or rooms, or in respect of any liquor kept therein or removed therefrom, the judge of the provincial court making the conviction may in and by the conviction, declare the residence or the rooms of the lodgers, boarders or tenants therein or both, to be a public place for the purpose of this Act and the residence or rooms or both, shall cease to be a residence within the meaning of this Act for a period of one year after the date of the conviction, provided that the Corporation may, when satisfied of a *bona fide* change of ownership or occupation of the residence or rooms or both, or when it is desirable to do so, declare the residence or rooms or both to be a residence within the meaning of this Act and may grant a certificate to that effect to the new owner or occupant of the residence or rooms or both and the residence or rooms or both shall, from the date of the granting of the certificate signed by the President of the Corporation, be a residence and cease to be a public place within the meaning of this Act. R.S., c. 260, s. 62; 2001, c. 4, s. 29.

### **Permit for brewer, distiller or vintner**

**63 (1)** The Corporation may, with the approval of the Minister and subject to this Act and the regulations, grant a permit to a brewer, distiller or vintner authorizing the distiller, brewer or vintner to keep for sale and sell liquor to the Corporation.

**(2)** Subject to this Act and the regulations, the Corporation may include terms and conditions in a permit issued pursuant to this Section.

**(3)** The Corporation, with the approval of the Governor in Council, may make regulations respecting the transportation, delivery and storage of liquor by a permit holder. R.S., c. 260, s. 63; 2001, c. 4, s. 29.

### **Cancellation or suspension of permit**

**64** The Corporation may, for any cause which it deems sufficient with or without any hearing, cancel or suspend, in the manner prescribed by the regulations, any permit granted to a brewer, distiller or vintner, and the right of the brewer, distiller or vintner to sell or deliver liquor, beer or wine thereunder shall be suspended or determined as the case may be. R.S., c. 260, s. 64; 2001, c. 4, s. 29.

### **Appeal**

**65 (1)** A person who is dissatisfied with a decision of the Corporation made pursuant to Section 64 may appeal the decision to the Minister within thirty days after it is made.

**(2)** The Minister shall consider the matter appealed to him and may affirm, vary or reverse the decision of the Corporation.

**(3)** The decision of the Minister is final. R.S., c. 260, s. 65; 2001, c. 4, s. 29.

## LIQUOR KEPT AND SOLD

### UNDER SPECIAL PERMITS

#### **Special permit for druggist**

**66 (1)** Any druggist may have in his possession alcohol purchased by him from a store manager under a special permit pursuant to this Act, the alcohol to be used solely in connection with the business of the druggist in compounding medicines or as a solvent or preservative, provided that no fee shall be charged to a druggist by the Corporation for the special permit and that alcohol so purchased shall be sold to a druggist at cost.

**(2)** No druggist shall be appointed a store manager or be authorized or permitted to have or keep for sale or by himself or his clerk, servant or agent to sell liquor.

**(3)** Nothing in this Act shall interfere with or prevent the storing or the use by druggists of alcohol in bond solely for the purpose of manufacture of chemical substances or medicinal preparations, and alcohol for such use may be purchased in bond from any distiller or wholesale liquor dealer in Canada.

**(4)** Any druggist may sell rubbing alcohol compound supplied by and sold under the regulations of the Government of Canada. R.S., c. 260, s. 66; 2001, c. 4, s. 24.

#### **Use of liquor by physician**

**67 (1)** Any physician who is lawfully and regularly engaged in the practice of his profession in the Province and who deems liquor necessary for the health of a patient of his whom he has seen or visited professionally may give to the patient a prescription therefor in the prescribed form, signed by the physician and addressed to a store manager for liquor not exceeding twenty-six ounces, but no prescription shall be given except to a *bona fide* patient in cases of actual need and, when in the judgement of the physician the use of liquor as medicine in the quantity prescribed is necessary, or the physician may administer or supply the liquor to the patient, for which purpose the physician shall administer or supply only such liquor as was purchased by him under a special permit pursuant to this Act, and may charge for the liquor so administered or supplied.

**(2)** Every physician who gives any prescription or administers or supplies any liquor in evasion or violation of this Act, or who gives to or writes for any person a prescription

for or including liquor for the purpose of enabling or assisting any person to evade any of the provisions of this Act, or for the purpose of enabling or assisting any person to obtain liquor to be used as a beverage, or to be sold or disposed of in any manner in violation of this Act, shall be guilty of an offence against this Act.

(3) A store manager may, upon the prescription of a physician, sell and supply for strictly medicinal purposes

(a) distilled liquor not exceeding one quart at any one time;

(b) alcohol for rubbing or other necessary purposes not exceeding sixteen ounces at any one time.

(4) No more than one sale and one delivery shall be made on any one prescription.

(5) Any dentist who deems it necessary that any patient being then under treatment by him should be supplied with liquor as a stimulant or restorative may administer to the patient the liquor so needed, and for that purpose the dentist shall administer liquor purchased by him under special permit pursuant to this Act, and may charge for the liquor so administered, but no liquor shall be administered by a dentist except to a *bona fide* patient in case of actual need, and every dentist who administers liquor in evasion or violation of this Act shall be guilty of an offence against this Act.

(6) Any veterinarian who deems it necessary may, in the course of his practice, administer or cause to be administered liquor to any dumb animal, and for that purpose the veterinarian shall administer or cause to be administered liquor purchased by him under special permit pursuant to this Act, and may charge for the liquor so administered or caused to be administered, but no veterinarian shall himself consume nor shall he give to or permit any person to consume as a beverage any liquor so purchased, and every veterinarian who evades or violates or suffers or permits any evasion of this Section shall be guilty of an offence against this Act.

(7) Any violation of this Section shall be an offence against this Act. R.S., c. 260, s. 67; 2000, c. 28, s. 82.

### **Use of liquor in approved institution**

68 Any person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill-health, or as a home devoted exclusively to the care of aged people, may, if he holds a special permit under this Act for that purpose, administer liquor purchased by him under his special permit to any patient or inmate of the institution who is in need of the same, on the prescription of a physician, either by way of external application or otherwise for emergency medicinal purposes, and may charge for the liquor so administered, but no liquor shall be administered by any person under this Section except on the prescription of a physician and to *bona fide* patients or inmates of the institution of which he is in charge and in cases of actual need, and every person in

charge of an institution or employed therein, who administers liquor in evasion or violation of this Act, shall be guilty of an offence against this Act. R.S., c. 260, s. 68; revision corrected 2002.

## APPLICATION OF ACT

### **Sale of liquor outside the Province**

**69 (1)** Nothing in this Act shall prevent any brewer, distiller or vintner or other person duly licensed under any statute of the Parliament of Canada for the manufacture of liquor, from having or keeping liquor in a place and in the manner authorized by or under any such statute or from selling liquor therefrom to a person in another province or in a foreign country.

**(2)** Nothing in this Act shall prevent

(a) the sale of liquor by any person to the Corporation;

(b) the purchase, importation and sale of liquor by the Corporation. R.S., c. 260, s. 69; 2001, c. 4, s. 29.

### **Sale of medicine permitted**

**70** Except as otherwise provided by this Act, or by the regulations or by the *Pharmacy Act*, a druggist or manufacturer of or dealer in patent or proprietary medicines may sell such medicine if the medicine contains sufficient medication to prevent its use as an alcoholic beverage. R.S., c. 260, s. 70.

### **Sale of preparations permitted**

**71 (1)** Except as otherwise expressly provided in this Act or as provided by regulation or by the *Pharmacy Act*, nothing in this Act shall prevent the sale,

(a) by a druggist or by a manufacturer of

(i) any tincture, fluid, extract, essence or medicated spirit containing alcohol prepared according to a formula of the British Pharmacopoeia or other recognized standard work on pharmacy,

(ii) medicine or other similar official or pharmaceutical compound or preparation,

(iii) a perfume, lotion, essence, tonic, tincture, or a compound or preparation commonly known as flavouring extract,

(iv) for purely medicinal purposes, of any mixture so prepared containing alcohol and other drugs or medicine; or

(b) by a merchant or dealer who deals in drugs or medicines, of such compounds, mixtures and preparations as are in this Section hereinbefore mentioned and are made or put up by a druggist or manufacturer.

(2) If in any prosecution for selling any of the products mentioned in Section 70 or this Section, the judge of the provincial court hearing the complaint is of the opinion that an unreasonable quantity of any such product, having regard to the purposes for which the same was legitimately manufactured, was sold or otherwise disposed of to any person either at one time or at intervals, and proof is also given that the product was used for beverage purposes, the person selling or otherwise disposing of the same may be convicted of an offence under subsection (1) of Section 78.

(3) Any person who sells for beverage purposes any of the products mentioned in Section 70 or this Section shall be guilty of an offence.

(4) Any person who obtains or consumes for beverage purposes any of the products mentioned in Section 70 or this Section shall be guilty of an offence. R.S., c. 260, s. 71.

### **Order prohibiting sale of product**

**72 (1)** Notwithstanding any of the other provisions of this Act, the Corporation, if satisfied that any patent or proprietary medicine or any extract, lotion, essence, tonic, tincture, compound or preparation contains alcohol and is being kept for sale or sold for use as a beverage by any person, may, in the exercise of its discretion and with or without notice to the person affected, make an order prohibiting such person from having or selling any such product described therein.

(2) No person specified in any such order shall, after the making thereof, have or sell such product.

(3) Service of any such order upon the person therein specified may be proved by affidavit.

(4) The Corporation may in like manner revoke any such order. R.S., c. 260, s. 72; 2000, c. 28, s. 83; 2001, c. 4, s. 29.

### **Order prohibiting possession of product**

**73 (1)** Notwithstanding any of the other provisions of this Act, the Corporation, if satisfied that any patent or proprietary medicine, or any extract, lotion, essence, tonic, tincture, compound or preparation contains alcohol and is being used or may be used for beverage purposes, may from time to time in the exercise of its discretion and with or without notice to any person affected, with the approval of the Governor in Council, by notice signed by the President published in the Royal Gazette prohibit the possession and sale in the Province or any part thereof or the possession and sale in the Province or any part thereof except by a Government store or by a person thereunto licensed by the

Corporation of any such medicine, extract, lotion, essence, tonic, tincture, compound or preparation prepared or manufactured by any particular person, or designated by any particular name or brand or otherwise.

(2) After publication of any such notice no person shall, in the Province or in that part of the Province to which such prohibition applies, as the case may be, have in possession or sell any medicine, extract, lotion, essence, tonic, tincture, compound or preparation the possession and sale of which is prohibited in the notice.

(3) The publication of notice of the prohibition in the Royal Gazette shall be conclusive proof of the making thereof by the Corporation and the approval thereof by the Governor in Council.

(4) The Corporation may in like manner revoke any such prohibition. R.S., c. 260, s. 73; 2001, c. 4, s. 29.

#### **Information may be required on label**

74 (1) Every brewer, distiller or vintner shall, on all beer, liquor or wine manufactured and bottled for sale or consumption within the Province, place such information as to the contents or otherwise as the Corporation may from time to time require and shall also cause the same information to be placed on any package or container in which the beer, liquor or wine is sold.

(2) Any brewer, distiller or vintner violating this Section shall be guilty of an offence and liable upon summary conviction to a penalty of not more than two thousand dollars. R.S., c. 260, s. 74; 2001, c. 4, s. 29.

#### **License to sell or distribute**

75 Subject to this Act and the regulations, the Corporation may license a person to engage in the sale and distribution of liquor and a person so licensed may act as agent for suppliers and manufacturers of liquor located outside the Province. R.S., c. 260, s. 75; 2001, c. 4, s. 29.

#### **Beer or wine making for personal use**

76 Subject to this Act and the regulations, any person may engage in the process of beer or wine making for personal use. R.S., c. 260, s. 76.

#### **Liquor, beer and wine societies**

77 Subject to this Act and the regulations, liquor, beer and wine societies may consume liquor, beer and wine and may order liquor, beer and wine in such places and in such quantities as the Corporation may prescribe by regulation. R.S., c. 260, s. 77; 2001, c. 4, s. 29.

### **PART III**

PROHIBITIONS, PENALTIES AND  
PROCEDURE IN PROSECUTIONS AND ON APPEAL

**Unlawful sale of liquor**

**78 (1)** Except as provided by this Act or by the regulations, no person shall, within the Province by himself, his clerk, servant or agent, directly or indirectly, upon any pretence or upon any device expose or keep for sale, sell or barter, or offer to sell liquor or in consideration of the purchase or transfer of any property, or for any other consideration, or at the time of the transfer of any property, give liquor to any other person.

**(2)** Except as authorized by this Act or the regulations, no liquor shall be manufactured, transported, kept or had by any person.

**(3)** Except as authorized by this Act or the regulations, no liquor shall be given or consumed by any person.

**(4)** Every person who violates this Section is guilty of an offence and liable upon summary conviction to a fine or not less than three hundred dollars and not more than one thousand dollars or, in default, to imprisonment for not less than one nor more than two months for a first offence, and to a fine of not less than seven hundred and fifty dollars and not more than fifteen hundred dollars or, in default, to imprisonment for not less than one and not more than four months for a second or subsequent offence. R.S., c. 260, s. 78.

**Gift prohibited**

**79** No brewer, distiller, vintner or manufacturer of liquor shall, within the Province, by himself, his clerk, servant or agent, give to any person any liquor except as may be permitted by and in accordance with the regulations. R.S., c. 260, s. 79.

**Selling at prohibited place or time**

**80 (1)** No store manager, and no person acting as the clerk or servant of, or in any capacity for any store manager, and no other person, shall sell liquor in any other place or at any other time or otherwise than as authorized by this Act and the regulations.

**(2)** No store manager and no person acting as the clerk or servant of, or in any capacity for any store manager, shall furnish or sell liquor to any permit holder or license holder whose permit or license has not been acquired in accordance with this Act and the regulations. R.S., c. 260, s. 80.

**Business association prohibited**

**81 (1)** No member or employee of the Corporation, or spouse of the member or employee, shall be directly or indirectly interested or engaged in any other business or

undertaking dealing in liquor, whether as owner, part-owner, partner, member of syndicate, shareholder, agent or employee and whether for his own benefit or in a fiduciary capacity for some other person.

(2) No member or employee of the Corporation or any employee of the Government, or spouse of the member or employee, shall solicit or receive directly or indirectly any commission, remuneration or gift whatsoever from any person or corporation having sold, selling or offering liquor for sale to the Government or Corporation in pursuance of this Act.

(3) No person selling or offering for sale, to, or purchasing liquor from, the Government or the Corporation, shall either directly or indirectly offer to pay any commission, profit or remuneration, or make any gift to any member or employee of the Corporation or to any employee of the Government, or spouse of the member or employee, or to anyone on behalf of such member or employee or spouse. R.S., c. 260, s. 81; 2001, c. 4, s. 29.

### **Business association prohibited**

**82 (1)** No member or employee of the Review Board or employee of the Department having any responsibilities under this Act, or spouse of the member or employee, shall be directly or indirectly interested or engaged in any other business or undertaking dealing in liquor, whether as owner, part-owner, partner, member of a syndicate, shareholder, agent or employee and whether for his own benefit or in a fiduciary capacity for some other person.

(2) No member or employee of the Review Board or employee of the Department having any responsibilities under this Act, or spouse of the member or employee, shall solicit or receive directly or indirectly any commission, remuneration or gift whatsoever from any person seeking or holding a license granted pursuant to this Act.

(3) No person seeking or holding a license granted pursuant to this Act shall either directly or indirectly offer to pay any commission, profit or remuneration, or make a gift to any member or employee of the Review Board or employee of the Department having any responsibilities under this Act, or to the spouse of the member or employee, or to anyone on behalf of the member or employee. R.S., c. 260, s. 82; 2000, c. 28, s. 84.

### **Liquor not to be consideration**

**83** Except as provided in this Act, no person shall, within the Province, by himself, his clerk, servant or agent attempt to purchase, or directly or indirectly or upon any pretence or upon any device, purchase or in consideration of the sale or transfer of any property, or for any other consideration, or at the time of the transfer of any property, take or accept from any other person any liquor. R.S., c. 260, s. 83.

### **Prohibited premises**

**84** Except as provided by this Act or by the regulations, no person shall consume any liquor on any premises where liquor is kept for sale. R.S., c. 260, s. 84.

### **Religious use permitted**

**85** Liquor lawfully purchased may be consumed and is hereby authorized to be consumed in an appropriate place when used for sacramental purposes or in any religious ceremony. R.S., c. 260, s. 85.

### **Seizure and forfeiture of liquor**

**86** Any Provincial Police constable or officer appointed by the Corporation who finds liquor which, in his opinion, is had or kept by any person in violation of this Act may, without laying any information or obtaining any warrant, forthwith seize and remove the same and the package in which the liquor is kept, and upon conviction of the person for a violation of this Section the liquor and all packages containing the same shall, in addition to any other penalty prescribed by this Act, *ipso facto* be forfeited to Her Majesty in right of the Province. R.S., c. 260, s. 86; 2001, c. 4, s. 29.

### **Public intoxication prohibited**

**87 (1)** No person shall be in an intoxicated condition in a public place.

**(2)** Where an officer has reasonable and probable grounds to believe a person is in an intoxicated condition in a public place, the officer may, instead of charging the person under the Act, take the person into custody to be dealt with in accordance with this Section.

**(3)** A person taken into custody pursuant to this Section may be taken by the officer to any available treatment service, hostel or facility for care.

**(4)** A person arrested or taken into custody pursuant to this Section shall not be held in custody in a jail or lock-up for more than twenty-four hours after being arrested or taken into custody.

**(5)** A person taken by an officer to any treatment service, hostel or facility for care shall not be detained there for more than twenty-four hours after he was taken into custody unless the person consents to remain for a longer period.

**(6)** A person taken into custody pursuant to this Section may be released from custody at any time if

(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 a disturbance to others; or

(b) a person capable of doing so undertakes to take care of the person in custody upon his release. R.S., c. 260, s. 87.

### **Sale to impaired person**

**88** No employee of the Corporation shall sell or supply liquor or permit liquor to be sold or supplied to any person under or apparently under the influence of liquor. R.S., c. 260, s. 88; 2001, c. 4, s. 29.

### **Use of liquor by minor**

**89 (1)** Liquor shall not be sold, supplied or given to or procured for or by any person under the age of nineteen years, except for medicinal purposes only as provided for by this Act.

**(2)** Every person who knowingly sells or supplies liquor to any person under the age of nineteen years or knowingly gives liquor to or procures liquor for any person under the age of nineteen years, except for medicinal purposes only as provided by this Act, shall be liable to the penalties mentioned in Section 104.

**(3)** Except as authorized by the regulations, no person who is under the age of nineteen years shall enter or be in a tavern, beverage room, lounge, or cabaret in respect of which a tavern license, beverage room license, lounge license or cabaret license is in effect.

**(4)** Except as authorized by the regulations, the holder of a tavern license, beverage room license, lounge license or cabaret license shall not permit a person who is under the age of nineteen years to be or remain in the tavern, beverage room, lounge or cabaret. R.S., c. 260, s. 89; 1990, c. 33, s. 1.

### **Unlawful purchase of liquor**

**90** Except as provided by this Act or the regulations, no person shall purchase liquor from any person other than a store manager or the Corporation. R.S., c. 260, s. 90; 2001, c. 4, s. 29.

### **Restoration of permit or license**

**91** No person whose permit or license to purchase liquor has been cancelled shall, within a period of twelve months after the date of the cancellation, make application for another permit or license under this Act. R.S., c. 260, s. 91.

### **Unlawful use of permit or license**

**92 (1)** No person shall purchase or attempt to purchase liquor under a permit or license which is suspended, which has been cancelled or of which he is not the holder.

**(2)** No person shall apply in any name except his own for the issue to him of a permit or license authorizing the purchase of liquor.

(3) No person shall furnish a wrong or fictitious address or age in applying for the issue to him of a permit authorizing the purchase of liquor. R.S., c. 260, s. 92.

### **Offence by Corporation personnel**

**93** No store manager or assistant, clerk or other employee of a store, shall

- (a) purchase liquor excepting from the Corporation;
- (b) have on the premises of the Government store or agency store under his control any liquor which has not been supplied by the Corporation;
- (c) sell or offer for sale any liquor other than such as has been supplied by the Corporation;
- (d) adulterate or cause to be adulterated any liquor kept for sale under this Act, by mixing with the same colouring matter or any drugs or ingredients whatever;
- (e) mix the same with other liquor of whatever kind or quality or with water;
- (f) sell or expose for sale liquor so adulterated. R.S., c. 260, s. 93; 2001, c. 4, s. 29.

### **Bribery**

**94** No person shall offer or give money or any other consideration to a store manager or other employee of a Government store or agency store as an inducement to violate this Act, or as an inducement for such store manager or employee to interest himself in promoting the sale of any particular class or brand of liquor. R.S., c. 260, s. 94; 2001, c. 4, s. 26.

### **Duty to prevent drunkenness**

**95** No person shall,

- (a) permit drunkenness to take place in any house or on any premises of which he is the owner, tenant or occupant;
- (b) permit or suffer any person apparently under the influence of liquor to consume any liquor in any house or on any premises of which the first named person is owner, tenant or occupant; or
- (c) give any liquor to any person apparently under the influence of liquor. R.S., c. 260, s. 95.

### **Promotion of liquor prohibited**

**96** Except as permitted by this Act or the regulations, no person shall, within the Province, advertise or promote in any manner any liquor, beer or wine. R.S., c. 260, s. 96.

### **Promotion payment prohibited**

**97** Except as provided by this Act or the regulations, no person on his own behalf or on behalf of any other person shall, for the purpose of promoting the sale of or advertising or creating goodwill for any liquor, offer, give or dispose of by way of sale or otherwise, anything whatsoever, and no person shall accept or receive anything whatsoever offered, given or otherwise disposed of for such purposes or any of them. R.S., c. 260, s. 97.

### **Storage of liquor prohibited**

**98** Except as otherwise provided in this Act or the regulations, no person shall lease or permit the use of any building or premises owned or occupied by him for the storage of liquor. R.S., c. 260, s. 98.

### **Sale or supply of liquor prohibited**

**99** Every person who unlawfully sells or supplies liquor to a person, other than a person who is not of the age of majority, is guilty of an offence and liable upon summary conviction to a fine of not less than seven hundred and fifty dollars and not more than two thousand dollars or, in default, to imprisonment for not less than one nor more than two months for a first offence, and a fine of not less than one thousand dollars and not more than two thousand dollars or, in default, to imprisonment for not less than one and not more than six months for a second or subsequent offence. R.S., c. 260, s. 99; 2001, c. 4, s. 27.

### **Prohibited sale by manufacturer**

**100** A manufacturer of liquor convicted of selling liquor in violation of this Act or the regulations is guilty of an offence and upon summary conviction shall pay a fine of ten thousand dollars. R.S., c. 260, s. 100.

### **Prohibited purchase**

**101** Every person who purchases liquor from a seller who is not authorized by enactment to sell liquor is guilty of an offence and liable upon summary conviction to a fine of not less than one hundred dollars and not more than five hundred dollars or, in default, to a term of imprisonment. R.S., c. 260, s. 101.

### **False proof of age**

**102** Every person who presents false proof of age in order to obtain an identification card or to purchase liquor is guilty of an offence and liable upon summary conviction to a fine

of not less than one hundred dollars and not more than five hundred dollars or, in default, to a term of imprisonment. R.S., c. 260, s. 102.

### **Penalty for corporation**

**103** Notwithstanding the provisions of this Act, where a corporation is convicted of a violation of this Act or the regulations for which no greater penalty is provided, the corporation is liable to a fine of not more than twenty-five thousand dollars for a first offence and not more than fifty thousand dollars for a second or subsequent offence. R.S., c. 260, s. 103; 2001, c. 4, s. 28.

### **Penalty respecting subsection 89(2)**

**104** Every person who knowingly violates subsection (2) of Section 89, shall for the first offence be imprisoned for not less than one month, or more than three months, and for a second or subsequent offence, be imprisoned for not less than four months, or more than twelve months. R.S., c. 260, s. 104.

### **Liquor to be forfeited**

**105** In all cases where a conviction under this Act is made in respect of any liquor, the judge of the provincial court making the conviction shall declare the liquor to be forfeited to Her Majesty in right of the Province. R.S., c. 260, s. 105.

### **Officer of corporation personally liable**

**106** Where an offence against this Act is committed by a corporation, the officer or agent of the corporation in charge of the premises in which the offence is committed shall *prima facie* be deemed to be a party to the offence so committed, and shall be personally liable to the penalties prescribed for the offence as a principal offender, but nothing in this Section shall relieve the corporation or the person who actually committed the offence from liability therefor. R.S., c. 260, s. 106.

### **Occupant liable**

**107** Upon proof of the fact that an offence against this Act has been committed by any person in the employ of the occupant of any house, shop, room or other premises in which the offence is committed, or by any person who is suffered by the occupant to be or remain in or upon such house, shop, room or premises, or to act in any way for the occupant, the occupant shall *prima facie* be deemed to be a party to the offence so committed, and shall be liable to the penalties prescribed for the offence as a principal offender, notwithstanding the fact that the offence was committed by a person who is not proved to have committed it under or by the direction of the occupant, but nothing in this Section shall relieve the person actually committing the offence from liability therefor. R.S., c. 260, s. 107.

### **Warrant to enter and search**

**108 (1)** Upon information on oath by any Provincial Police constable or other officer, that he suspects or believes that liquor is unlawfully kept or had, or kept or had for unlawful purposes, in any residence, building or premises, it shall be lawful for any justice of the peace, by warrant under his hand, to authorize and empower the inspector or constable, or any other person named therein, to enter and search the residence, building or premises and every part thereof at any time in the day or night and for that purpose to break open any door, lock or fastening of the residence, building or premises or any part thereof, or any closet, cupboard, box, or other receptacle therein which might contain liquor, and to seize such liquor if found.

**(2)** It shall not be necessary for the inspector, constable or other officer to set out in the information any reason or grounds for his suspicion or belief. R.S., c. 260, s. 108.

### **Blanket search warrant**

**109 (1)** Any Provincial Police constable or other officer, who is authorized in writing for the purpose by the Minister, if he believes or suspects that liquor is unlawfully kept or had, or kept or had for unlawful purposes, in any residence, building or premises, may, without warrant, whether alone or accompanied by other officers, at any time in the day or night, enter and search the residence, building or premises, and every part thereof, and for that purpose may break open any door, lock, or fastening of the residence, building or premises or any part thereof, or any closet, cupboard, box or other receptacle therein which might contain liquor and seize such liquor if found, and such authority shall be a general one and shall be effective until revoked, and such authority in writing shall be *prima facie* proof before any court.

**(2)** Every person being in the residence, building or premises or having charge thereof who refuses or fails to admit any inspector, constable or other officer demanding to enter in pursuance of this Section or of Section 108 in the execution of his duty, or who obstructs or attempts to obstruct the entry of the inspector, constable or other officer or any search by him, shall be guilty of an offence against this Act. R.S., c. 260, s. 109.

### **Presumption that liquor for sale**

**110 (1)** If on any such search as mentioned in Sections 108 and 109, any liquor is found on the premises, the occupant of the premises shall, until the contrary is proved, be deemed to have kept the liquor for sale contrary to this Act, and may be arrested by any of the officers having the search warrant or the authority of the Minister aforesaid or their assistants.

**(2)** Upon arrest, the person shall be brought before the justice of the peace who issued the search warrant or in the case of a search under Section 109 before any judge of the provincial court having jurisdiction, and he shall then stand charged before the judge or justice of the peace with having unlawfully kept liquor for sale on the day of the seizure, at the place where the seizure was made, contrary to this Act, in all respects and to the

same effect as if an information had been duly laid for the offence and he had been brought before the judge or justice of the peace under a warrant issued thereon.

(3) The judge or justice of the peace shall thereupon remand to jail the person for trial upon the charge at such time as the judge shall appoint unless he shall enter into sufficient recognizance with or without sureties for his appearance for trial at such appointed time.

(4) Further proceedings in such case shall be as provided in and for an ordinary prosecution for keeping for sale liquor contrary to this Act. R.S., c. 260, s. 110.

### **Power to arrest**

**111 (1)** Any inspector, constable or other officer may arrest without warrant any person whom he finds committing an offence against this Act.

(2) Every inspector appointed under this Act shall have all the authority conferred by any statute of this Province on constables, special constables, police officers or other peace officers and may execute a summons or warrant issued upon an information laid by himself. R.S., c. 260, s. 111.

### **Right to determine name and address**

**112** Any Provincial Police constable or other officer, having in pursuance of the authority conferred by this Act, entered any licensed or unlicensed premises may demand the name and address of any person found therein, and if such person refuses to give his name and address, or if the inspector, constable or other officer has reasonable grounds to believe that the name or address given is false, he may examine the person further as to the correctness of the name or address, and if the person fails upon demand to give his name or address, or to answer satisfactorily the questions put to him, he shall be deemed guilty of a violation of this Act and the inspector, constable or other officer may arrest him without warrant and prosecute him for such violation of this Act. R.S., c. 260, s. 112.

### **Power to search**

**113** Any Provincial Police constable or other officer, if he believes or suspects that liquor is unlawfully kept or had, or kept or had for unlawful purposes, and is contained in any vehicle, motor car, automobile, vessel, boat, canoe or conveyance of any description, or is unlawfully kept or had, or kept or had for unlawful purposes, on the lands or persons of any person, shall have power without warrant to search for such liquor wherever he may suspect it to be and if need be, by force, and may search the person himself, and may seize and remove any liquor found and the packages in which the same is kept. R.S., c. 260, s. 113.

### **Search of female**

**114** Where the person to be searched is a female suspected of unlawfully having liquor concealed upon her person or among her personal effects or in any place over which she has control, the Provincial Police constable or other officer may, if he judges it advisable, employ any woman to act in the capacity of a police matron for the purpose of assisting him in conducting a search for such liquor and the person so employed shall, for such purpose and in any other matter or thing pertaining thereto or arising thereout, have all the powers, privileges and immunities belonging to the Provincial Police constable or other officer. R.S., c. 260, s. 114.

### **Liquor unlawfully kept in building**

**115** Where the Provincial Police constable or other officer, in making or attempting to make any search under or in pursuance of the authority conferred by Sections 108, 109 or 113 finds in any building or place any liquor which, in his opinion, is unlawfully kept or had, or kept or had for unlawful purposes, contrary to this Act, he may forthwith seize and remove the same and the packages in which the same is kept, and may seize and remove any book, paper or thing found in the building or place which, in his opinion, will afford evidence as to the commission of any offence against this Act, and upon the conviction of the occupant of the building or place or any other person for keeping the liquor contrary to this Act in such building or place, the judge of the provincial court making the conviction shall in and by the conviction declare the liquor and packages or any part thereof to be forfeited to Her Majesty in right of the Province. R.S., c. 260, s. 115.

### **Liquor unlawfully kept in vehicle**

**116** Where the Provincial Police constable or other officer, in making or attempting to make any search under or in pursuance of the authority conferred by Section 113 finds in any vehicle, motor car, automobile, vessel, boat, canoe or conveyance of any description, liquor which, in his opinion, is unlawfully kept, or had, or kept or had for unlawful purposes contrary to this Act, he may forthwith seize the liquor and the packages in which the same is contained, and the vehicle, motor car, automobile, vessel, boat, canoe or conveyance in which the said liquor is so found, and upon the conviction of the occupant or person in charge of the vehicle, motor car, automobile, vessel, boat, canoe or conveyance or of any other person, for having or keeping the said liquor contrary to this Act in the vehicle, motor car, automobile, vessel, boat, canoe or conveyance, the judge of the provincial court making the conviction may in and by the conviction declare the liquor or any part thereof so seized and the packages in which the same is contained to be forfeited to Her Majesty in right of the Province, and the judge of the provincial court may in and by the conviction further declare the vehicle, motor car, automobile, vessel, boat, canoe or conveyance so seized to be forfeited to Her Majesty. R.S., c. 260, s. 116.

### **Liquor found by peace officer**

**117 (1)** Where liquor is found by any Provincial Police constable or other officer on any premises or in any place or in any vehicle, motor car, automobile, vessel, boat, canoe or conveyance of any description and in such quantities as to satisfy the constable or officer

that the liquor is being had or kept contrary to this Act, it shall be lawful for the constable or officer to forthwith seize and remove by force, if necessary, any liquor so found and the packages in which the liquor was had or kept, together with any vehicle, motor car, automobile, vessel, boat, canoe or conveyance containing the liquor, and the provisions of subsections (2), (3) and (4) shall apply.

(2) Where liquor and any vehicle, motor car, automobile, vessel, boat, canoe or other conveyance containing liquor has been seized by a constable or officer under this Act, under such circumstances that the constable or officer is satisfied that the liquor was had or kept contrary to this Act, he shall, under this Section, retain the liquor and the packages in which the same was had or kept, together with the vehicle, motor car, automobile, vessel, boat, canoe or other conveyance.

(3) If, within thirty days from the date of the seizure, no person by notice in writing filed with the Corporation, claims to be the owner of the liquor and the vehicle, motor car, automobile, vessel, boat, canoe or other conveyance containing the liquor, the liquor and all packages containing the same, together with the vehicle, motor car, automobile, vessel, boat, canoe or other conveyance containing such liquor shall *ipso facto* be forfeited to Her Majesty in right of the Province and shall forthwith be delivered to the Corporation.

(4) If within the said time any claimant appears, it shall be incumbent upon him within that time, after three days notice in writing filed with the Corporation, and in accordance with the regulations, to prove his claim and his right under this Act to the possession of the liquor and packages or of the vehicle, motor car, automobile, vessel, boat, canoe or other conveyance containing the liquor and packages to the satisfaction of the Corporation, and on failure within that time to prove and establish his claim and right, the liquor and packages, and the vehicle, motor car, automobile, vessel, boat, canoe or other conveyance in which the liquor was found shall *ipso facto* be forfeited to Her Majesty in right of the Province.

(5) Any Provincial Police constable or other officer may seize any liquor which he has reason to believe has been kept or had in possession in violation of subsection (1) of Section 78, and may arrest without warrant any person whom he finds so offending and, upon the conviction of the person keeping or having such liquor of a violation of said subsection, the liquor seized shall be *ipso facto* forfeited to Her Majesty in right of the Province. R.S., c. 260, s. 117; 2001, c. 4, s. 29.

### **Forfeited liquor to Corporation**

**118 (1)** In every case in which a judge of the provincial court makes any order for the forfeiture of liquor under this Act, and in every case in which any claimant to liquor under Section 117 fails to establish his claim and right thereto, the liquor in question and the packages in which the liquor is kept shall forthwith be delivered to the Corporation.

(2) The Corporation shall thereupon determine the market value of all forfeited liquor which is found to be suitable for sale in the Government stores, and the Corporation shall pay the amount so determined to the Minister of Finance, after deducting therefrom the expenses necessarily incurred by the Corporation for transporting the forfeited liquor to the Government warehouses, and the liquor suitable for sale shall be taken into stock by the Corporation and sold under this Act.

(3) All forfeited liquor which is found to be unsuitable for sale in Government stores shall be destroyed under competent supervision as may from time to time be directed by the Corporation.

(4) In every case in which liquor is seized by a Provincial Police constable or other officer it shall be his duty forthwith to make or cause to be made to the Corporation a report in writing of the particulars of the seizure.

(5) Every motor car, automobile, vessel, boat, canoe or other vehicle or conveyance, or any package, receptacle, material or other matter or thing, other than liquor, forfeited to Her Majesty in right of the Province under this Act, shall, in accordance with the regulations, be sold by public auction or public tender by the Corporation, but the Governor in Council may direct that any such motor car, automobile, vessel, boat, canoe or other vehicle or conveyance, or any such package, receptacle, material or other matter or thing shall be destroyed or be reserved for the public service and the proceeds of every such sale shall be subject to the control of the Corporation, who shall first pay thereout all necessary costs and expenses of custody and sale, and shall then pay over the remainder of the proceeds to the Minister of Finance to form part of the Consolidated Fund of the Province. R.S., c. 260, s. 118; 2001, c. 4, s. 29.

### **Informant to be confidential**

**119** Where any information is given to any Provincial Police constable or other officer, that there is cause to suspect that some person is contravening this Act, it shall be his duty to make diligent inquiry into the truth of such information, and to enter complaint of the contravention before the proper court, without communicating the name of the person giving the information. R.S., c. 260, s. 119.

### **Inspection of commercial paper**

**120 (1)** For the purpose of obtaining information concerning any matter relating to the administration or enforcement of this Act, any inspector or officer appointed by the Corporation in writing for the purpose or any Provincial Police constable may inspect the freight and express books and records, and all waybills, bills of lading, receipts and documents in the possession of any railway company, express company or other common carrier doing business within the Province, any information on record relating to any goods shipped or carried or consigned or received for shipment or carriage within the Province.

(2) Every railway company, express company or common carrier, and every officer or employee of any such company or common carrier, who neglects or refuses to produce and submit for inspection any book, record or document referred to in subsection (1) when requested to do so by the Corporation or by such inspector or officer or Provincial Police constable, shall be guilty of an offence against this Act. R.S., c. 260, s. 120; 2001, c. 4, s. 29.

### **Disposition of pecuniary penalty**

**121** Any pecuniary penalty imposed for the violation of this Act shall, when recovered, be appropriated as follows:

(a) in any case where the prosecutor is a police officer, constable or other officer of a city or town the penalty shall be paid over by the judge of the provincial court or officer receiving the same to the treasurer of the city or town;

(b) in all other cases the penalty shall belong to the Corporation and shall be paid over by the judge of the provincial court or justice receiving the same to the inspector, constable or other officer who instituted the prosecution to be by him paid over or remitted to the Corporation. R.S., c. 260, s. 121; 2001, c. 4, s. 29.

### **Peace officer exempt from prosecution**

**122 (1)** If it is made to appear to the judge of the provincial court before whom any complaint under this Act is heard that the person charged was acting as a Provincial Police inspector, constable or other officer whose duty it was to enforce the Act, or was acting under the instructions or authority of the Attorney General, the Corporation, or the chief of a police force, for the purpose of enforcing any of the provisions of this Act, and of obtaining evidence upon which any person might be brought to justice, the defendant shall not be convicted.

(2) If, upon any prosecution under this Act or under any regulation, it appears from the evidence of any witness that such witness was present at the time or place at which the offence was committed, or did unlawfully procure or attempt to procure liquor at such time and place, the judge of the provincial court before whom the prosecution is brought may, having regard to the demeanour of the witness and his mode of giving evidence, by certificate in that behalf, exempt the witness from prosecution for such unlawful act, but no such exemption shall be granted to any person charged with the unlawful keeping for sale or other disposal of liquor, nor to the keeper or occupant of premises upon which the offence in respect of which the prosecution is brought, is alleged to have been committed.

(3) No witness examined in any proceeding under this Act may be compelled to state that he is an informer in the proceeding, nor shall any question be put to him with the object of showing whether the action was taken on a complaint by an informer, or of revealing the name of the informer.

(4) The provisions of Section 72 of the *Evidence Act* shall not apply to any witness in any prosecution or proceeding under this Act, but the law in force immediately before the enactment of Chapter 37 of the Acts of 1913 with respect to a witness being excused from answering a question upon the ground that the answer to such question may tend to criminate him or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person, shall apply to any witness in any such prosecution or proceeding. R.S., c. 260, s. 122; 2001, c. 4, s. 29.

### **Particulars unnecessary**

**123** In any prosecution under this Act for the sale or keeping for sale or other disposal of liquor or the having, keeping, giving, purchasing or consuming of liquor, it shall not be necessary that any witness should depose to the precise description or quantity of the liquor sold, disposed of, kept, had, given, purchased or consumed, or the precise consideration, if any, received therefor, or to the fact of the sale or other disposal having taken place with his participation or to his own personal or certain knowledge, but the judge of the provincial court trying the case, so soon as it appears to him that the circumstances in evidence sufficiently establish the offence complained of, shall put the defendant on his defence, and, in default of his rebuttal of such evidence to the satisfaction of the judge, convict him accordingly. R.S., c. 260, s. 123.

### **Proof of unlawful transfer of liquor**

**124** In proving the sale, disposal, gift or purchase, gratuitous or otherwise, or consumption of liquor, it shall not be necessary in any prosecution to show that any money actually passed or any liquor was actually consumed, if the judge of the provincial court hearing the case is satisfied that a transaction in the nature of a sale, disposal, gift, or purchase actually took place, or that any consumption of liquor was about to take place and proof of consumption or intended consumption of liquor on premises on which consumption is prohibited, by some person not authorized to consume liquor thereon, shall be evidence that such liquor was sold or given to or purchased by the person consuming, or being about to consume, or carrying away the same, as against the occupant of the premises. R.S., c. 260, s. 124.

### **Certificate as evidence**

**125 (1)** In any prosecution under this Act or the regulations, production by an inspector, a police officer, constable, Provincial Police inspector, peace officer or other officer, of a certificate or report signed or purporting to be signed by a Dominion or Provincial analyst or by a member of the Corporation as to the analysis or ingredients of any liquor or other fluid or any preparation, compound or substance, or that any liquor is or is not liquor sold by the Corporation, shall be conclusive evidence of the facts stated in the certificate or report and of the authority of the person giving or making the same without any proof of appointment or signature.

(2) The Governor in Council may appoint such persons as he thinks fit to be Provincial analysts for the purposes of this Act. R.S., c. 260, s. 125; 2001, c. 4, s. 29.

### **Inference from description**

**126 (1)** The judge of the provincial court trying a case shall, in the absence of proof to the contrary, infer that the liquor in question is intoxicating from the fact that a witness describes it as intoxicating, or as rum, whisky, gin, wine, ale, beer or by any other name which is commonly applied to an intoxicating liquor.

(2) Any liquor which contains more than one half of one per cent by volume at sixty degrees Fahrenheit of absolute alcohol shall conclusively be deemed to be intoxicating, but no inference shall be drawn that liquor which contains less than such one half of one per cent of absolute alcohol is not intoxicating. R.S., c. 260, s. 126.

### **Inference from circumstance**

**127** Upon the hearing of any charge of selling or purchasing liquor, or of unlawfully having or keeping liquor contrary to this Act, the judge of the provincial court trying the case shall have the right to draw inferences of fact from the kind and quantity of liquor found in the possession of the person accused, or in any building, premises, vehicle, motor car, automobile, vessel, boat, canoe, conveyance or place occupied or controlled by him, and from the frequency with which the liquor is received thereat or therein or is removed therefrom, and from the circumstances under which it is kept or dealt with. R.S., c. 260, s. 127.

### **Burden on accused**

**128** If, on the prosecution of any person charged with committing an offence against this Act, in selling or keeping for sale or giving or keeping or having or purchasing or receiving of liquor, *prima facie* proof is given that the person had in his possession or charge or control any liquor in respect of or concerning which he is being prosecuted, then, unless the person proves that he did not commit the offence with which he is so charged, he may be convicted of the offence. R.S., c. 260, s. 128.

### **Obstruction is *prima facie* evidence**

**129 (1)** In any prosecution for an offence alleged to have been committed under this Act it shall be *prima facie* evidence that liquor is being unlawfully kept for sale in any building, house, room, shop or other place in which an offence has been committed against this Act within the period of six months next preceding the date of the laying of the information in such prosecution and a conviction has been obtained therefor against any person if any inspector, constable or other officer authorized under this Act to enter the building, house, room, shop or other place and search for liquor is in any manner wilfully prevented from entering or is obstructed or delayed in entering the same or any part thereof and the fact in particular that entrance to the building, house, room, shop or

other place is had by any door or doors more strongly guarded by locks, bolts, bars or other defences than is reasonably necessary for purposes of security shall be *prima facie* evidence of an intention to prevent, obstruct or delay the inspector, constable or other officer in his or their attempt to enter the building, house, room, shop or other place for the purpose aforesaid and the occupant of the building, house, room, shop or other place shall, until the contrary is proved, be deemed guilty of having kept liquor for sale.

(2) Subsection (1) shall also apply if in the building, house, room, shop or other place devices or contrivances are found for giving notice or warning of the approach or attempted entrance of any inspector, constable, or officer, or if bottles or other vessels containing liquor are broken or destroyed or thrown out, or if liquor is spilled on the premises. R.S., c. 260, s. 129.

### **Burden respecting right to have liquor**

**130 (1)** The burden of proving the right to have or keep or sell or give or purchase or consume liquor shall be on the person accused of improperly or unlawfully having or keeping or selling or giving or purchasing or consuming the liquor, notwithstanding that the prosecution has given any evidence whatsoever in addition to the *prima facie* proof referred to in Section 128.

(2) The burden of proving that any prescription or administration of liquor is *bona fide* and for medical purposes only shall be upon the person who prescribes or administers the liquor, or causes the liquor to be administered, and a judge of the provincial court trying a case shall have the right to draw inferences of fact from the frequency with which similar prescriptions are given and from the amount of liquor prescribed or administered, and from the circumstances under which it is prescribed or administered. R.S., c. 260, c. 130.

### **Restriction on right to claim liquor**

**131** Notwithstanding anything hereinbefore contained, no person who, or whose partner or agent, or one of whose relations living with him, is convicted of a violation of this Act shall be permitted to set up or shall set up any claim or right of property in any liquor or vessels theretofore seized or to dispute the legality of any such seizure. R.S., c. 260, s. 131.

### **Concealment is evidence**

**132** If it appears to the judge of the provincial court that any liquor seized under this Act or any part thereof was consigned to some person in a fictitious name, or was shipped as other goods, or was covered or concealed in such a manner as would probably render discovery of the nature of the contents of the vessel, cask or package in which the same was contained more difficult, it shall be *prima facie* evidence that the liquor was intended to be sold or kept for sale or to be kept in contravention of this Act, or was bought or obtained in contravention of this Act. R.S., c. 260, s. 132.

### **Presence of appliances or preparations**

**133** Any house, shop, room or other place in which it is proved that there exist beer pumps or any other appliances or preparations similar to those usually found in hotels and shops where liquor is accustomed to be sold or trafficked in, other than those of common use in private houses, shall be *prima facie* evidence that it is a place in which liquor is unlawfully had or kept or had or kept for an unlawful purpose and in contravention of this Act, and the occupant of the house, shop, room or other place shall be taken to be the person who has or keeps therein the liquor for sale, traffic or barter therein. R.S., c. 260, s. 133.

### **Appearance of premises**

**134** The fact of any person keeping up any sign, writing, printing or other work in or near to his house or premises, or having the house fitted up with a bar or other place containing bottles or casks displayed so as to induce a reasonable belief that the house or premises is or are licensed for the sale of any liquor or that liquor is sold or served therein, or that there is on such premises more liquor than is reasonably required for the persons residing therein, shall be deemed *prima facie* evidence of the unlawful sale and keeping for sale and having and keeping of liquor by the person. R.S., c. 260, s. 134.

### **Order closing premises**

**135 (1)** Upon a conviction being had against any person for a violation of this Act, a judge of the provincial court in writing may order a chief of police or any constable to close, and the chief of police or constable shall close by means of seals, padlocks or otherwise any hotel, restaurant, house, residence, apartment, suite, building or premises in which or in respect of which, during the twelve months immediately preceding the making of such order, two other violations of this Act have been committed for which the same or any other person or persons were convicted.

**(2)** The previous convictions may be proved *prima facie* by the production of a certificate or certificates purporting to be under the hand of a member of the Corporation without any further or other proof or any proof that the certificate was signed by the member of the Corporation or that he is or was on the date of the certificate a member of the Corporation or that the certificate was granted or given in accordance with law and it shall not be necessary to state in the certificate that the offence for which the person was so previously convicted was committed in any particular place if proof is given by oral evidence before the judge that all of the offences in question were committed in the same place.

**(3)** Such closing shall be for such period, not exceeding twelve months, as the judge of the provincial court may fix in the order and the Corporation may, in its discretion, order the determination of the closing on the report of the chief of police or constable as the case may be, or when it is satisfied by the report or evidence of any person that there has been a *bona fide* change in the ownership or occupancy of the hotel, restaurant, house, residence, apartment, suite, building or premises, as the case may be, or that the owner or occupant of or any other person having any interest in the hotel, restaurant, house, residence, apartment, suite, building or premises, as the case may be, had no notice of the

proceeding or no opportunity of being heard before the judge, and that the owner, occupant or person was not a party or privy to the commission of the offence.

(4) The chief of police or constable shall have power to set a guard both outside and inside of any premises so closed as it may to him seem proper or necessary in order to render the closing effective.

(5) Any person who enters or attempts to enter any such premises after the closing or interferes with any constable in the discharge of his duties under the order may be arrested without warrant, and shall be guilty of an offence against this Act and liable to a fine of not less than fifty dollars and not more than two hundred dollars or to imprisonment for a term of not more than sixty days or both.

(6) When a tenant in any premises or part thereof is convicted of an offence against this Act, or an order has been made under subsection (1) because of one or more violations of this Act on the part of a tenant of any premises referred to in said subsection, the landlord may, within one month after the conviction or order by written notice to the tenant posted on the premises affected, declare the lease of the tenant to be forfeited and the same shall be null and void and "landlord" in this subsection shall be construed to include a mortgagee in possession.

(7) A tenant shall have the like power as is provided in subsection (6) in cases where the landlord, resident in the premises, is convicted or is the cause of any such order being made, and may vacate the premises upon the posting of such notice and the payment of rent then owing or proportionate to the time of the vacating, and a tenant may recover from the landlord any rent paid by him in advance of the forfeiture of his lease on his vacating the premises as aforesaid and there shall be no contracting out of the provisions of this subsection or subsection (6).

(8) For the purpose of this Section, all internally connected parts of the premises on which such violations of this Act have taken place shall be regarded as a unit and this Section shall not apply to other portions of the same building which are structurally separate and distinct therefrom and to which access is had by a separate door or doors leading either into a main or common hall or directly to the street.

(9) The motion for such order may be made by any Provincial Police constable or other officer without laying an information or complaint at any time within thirty days immediately following the date of the last conviction had for an offence committed in or in respect of the premises sought to be closed and the motion may be made either before the judge of the provincial court making the last conviction or before any other judge of the provincial court having jurisdiction in the place in which the premises are situate.

(10) Notice of the motion stating the name of the judge of the provincial court before whom it is to be made and the time and place fixed for hearing shall be given by delivering the same to the reputed occupant of the premises or by leaving it with any person apparently over the age of sixteen years found on the premises or by posting it on

the main entrance to the premises at least two clear days before the time fixed for the hearing and a true copy of the notice shall be filed with the judge of the provincial court named therein before it is served as aforesaid. R.S., c. 260, s. 135; 2001, c. 4, s. 29.

### **Proof of incorporation**

**136** In any prosecution, action or proceeding under this Act in which it is alleged that a corporation is or has been guilty of an offence against this Act, the fact of the incorporation of that corporation shall be presumed without it being proved by the prosecutor, unless satisfactory proof is produced to the contrary. R.S., c. 260, s. 136.

## **PART VI [IV]**

### **GENERAL**

### **Purpose and intent of Act**

**137** The purpose and intent of this Act are to prohibit transactions in liquor which take place wholly within the Province except under Government control, and every Section and provision of this Act and of the regulations dealing with the importation, sale and disposition of liquor within the Province through the instrumentality of a Corporation, and otherwise, provide the means by which such Government control shall be made effective, and nothing in this Act shall be construed as forbidding, affecting or regulating any transaction which is not subject to the legislative authority of the Province, and nothing in this Act shall apply to the keeping or having of any liquor by the Corporation or to the keeping or having of any proprietary or patent medicines or of any extracts, essences, tinctures or preparations, where such having or keeping is authorized by this Act, nor to the possession by a sheriff or his bailiff of liquor seized under execution or other judicial or extra-judicial process or to sales under executions or extra-judicial process to the Corporation. R.S., c. 260, s. 137; 2001, c. 4, s. 29.

### **Payment respecting incarceration**

**138** In the case of a person in custody or committed to jail in respect of an offence against this Act, there shall be paid by the Corporation to the treasurer of the municipality wherein such person is in custody or which maintains such jail the sum of four dollars for each day such person remains in custody or is in jail under such committal. R.S., c. 260, s. 138; 2001, c. 4, s. 29.

### **Doctrine of mens rea**

**139** The doctrine of *mens rea* is not applicable to offences under this Act. R.S., c. 260, s. 139.

### **Civil liability**

**140 (1)** Whenever any person has drunk liquor to excess and, while in a state of intoxication from such drinking, has come to his death by suicide or drowning, or perishing from cold or other accident caused by such intoxication, the person or persons who furnish or gave the liquor to such person when in a state of intoxication, or on whose premises it was obtained by the intoxicated person while intoxicated, shall be liable to an action for a wrongful act and as a personal wrong, and subject to the provisions of subsection (2), the action may be brought under the *Fatal Injuries Act*, and the amount which may be recovered as damages shall not be less than one hundred dollars nor more than one thousand five hundred dollars.

**(2)** Any such action shall be brought within six months from the date of the death of the intoxicated person and not afterwards. R.S., c. 260, s. 140.

### **Prohibition proclamation**

**141** In any case of emergency, the Governor in Council may issue a proclamation forbidding any person to have liquor in his possession within the area mentioned in the proclamation, unless the person has been authorized in writing by the Corporation and given special permission thereby to have liquor within that area, and the proclamation may also authorize, within the area, the seizure without other warrant or authority and detention for such time as may be authorized of any liquor not had or kept with the permission of the Corporation within the area and the proclamation may remain in force for such period as may be therein determined. R.S., c. 260, s. 141; 2001, c. 4, s. 29.

