



Tonga

**ORDER IN PUBLIC PLACES
(AMENDMENT) ACT 2010**

Act No. 30 of 2010



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ORDER IN PUBLIC PLACES (AMENDMENT) ACT 2010

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AN ACT TO AMEND THE ORDER IN PUBLIC PLACES ACT

I assent,
GEORGE TUPOU V,
20th September 2010.

BE IT ENACTED by the King and the Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

1 Short Title

- (1) This Act may be cited as the Order in Public Places (Amendment) Act 2010.
- (2) The Order in Public Places Act (Cap 37), as amended, is in this Act referred to as the Principal Act.

2 Section 3 amended

Section 3 of the Principal Act is amended by deleting “\$100” and substituting it with “\$1000” and deleting ‘4’ and substituting it with “12”.

3 New Sections 6A, 6B, 6C and 6D

The Principal Act is amended by inserting the following sections:

“6A Power to make orders for intoxicating liquor control purposes

- (1) The Minister for Police may make an order for the purpose of prohibiting or otherwise regulating or controlling, either generally or for one or more specified periods,—
 - (a) the consumption of liquor in a public place;
 - (b) the bringing of liquor into a public place;
 - (c) the possession of liquor in a public place; and
 - (d) in conjunction with a prohibition relating to liquor under paragraphs (a) to (c), the presence or use of a vehicle in a public place.
- (2) An order made under this section does not prohibit, in the case of liquor in an unopened bottle or other unopened container,—
 - (a) the transport of that liquor from premises that adjoin a public place during any period when, under the Intoxicating Liquor Act, it is lawful to sell liquor on those premises for consumption off the premises, provided the liquor is promptly removed from the public place;
 - (b) the transport of that liquor from outside a public place for delivery to premises that adjoin the public place, provided the premises are licensed for the sale of liquor under the Intoxicating Liquor Act;
 - (c) the transport of that liquor from outside a public place to premises that adjoin a public place—
 - (i) by, or for delivery to, a resident of those premises or by his bona fide visitors; or
 - (ii) from those premises to a place outside the public place by a resident of those premises, provided the liquor is promptly removed from the public place.

6B Powers of arrest, search, and seizure in relation to orders for liquor control in public place

- (1) A police officer may, without warrant,—
 - (a) for the purpose of ascertaining whether liquor is present, search—
 - (i) any person;
 - (ii) a container in the possession of a person who is in, or entering, a public place; or
 - (iii) a vehicle that is in, or is entering, a public place;
 - (b) seize and remove liquor and its container if the liquor is in a public place in breach of an order:

- (c) arrest a person whom the police officer finds committing an offence: and
 - (d) arrest a person who has refused to comply with a request by a police officer to leave the public place or to surrender to a police officer the liquor that, in breach of a order, is in that person's possession.
- (2) Intoxicating liquor or a container seized under sub-section (1)(b) shall be forfeited to the Crown if the person from whom the liquor or container is seized is convicted of breaching the order.

6C Conditions relating to power of search

- (1) Before exercising the power of search under section 6B in relation to a container or a vehicle, a police officer must—
- (a) inform the person in possession of the container or the vehicle, as the case may be, that he has the opportunity of removing the container or the vehicle from the public place; and
 - (b) provide the person with a reasonable opportunity to remove the container or the vehicle, as the case may be, from the public place.
- (2) On specified dates or in relation to specified events, notified in accordance with sub-section (3), a police officer may, immediately and without further notice, exercise the power under section 6B to search a container or a vehicle.
- (3) Before a police officer may exercise the power of search under sub-section (2), the Minister shall —
- (a) specify the public place where, and the period when, this power may be exercised by the Police by public notice given 14 days in advance; and
 - (b) indicate the location of the public place by one or more clearly legible notices affixed in one or more conspicuous places on, or adjacent to, the place to which the notice relates, unless it is impracticable or unreasonable to do so.
- (4) Sub-section (2) only applies if the police officer is authorised to exercise that power by an order made under section 6A.

6D Breach of section 6A order

Every person who breaches an order made under section 6A commits an offence and is punishable by a fine not exceeding \$5,000 or imprisonment for a term not exceeding 2 years.”.

Passed by the Legislative Assembly on this 2nd day of September 2010.