



Tuvalu

METHYLATED SPIRIT ACT

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Tuvalu

METHYLATED SPIRIT ACT

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Tuvalu

METHYLATED SPIRIT ACT

AN ACT TO PROHIBIT THE DRINKING OF METHYLATED SPIRIT AND TO CONTROL ITS IMPORTATION, SALE, POSSESSION AND USE¹

PART I - PRELIMINARY

1 Short title

This Act may be cited as the Methylated Spirit Act.

2 Purposes of this Act

- (1) Methylated spirit is a dangerous poison, yet some foolish people still drink it.
- (2) The purpose of this Act is to prohibit the drinking of this poison, and for that purpose to strictly control its importation, sale, possession and use.

3 Interpretation

In this Act —

“**householder**”, in relation to a methylated spirit permit, means —

- (a) the person considered by the permit officer to be the head of the household; or
- (b) with the approval of the permit officer - a member of the household nominated by the person referred to in paragraph (a) to stand in his place for the purpose of this Act;

“**island co-operative society**” means a co-operative society registered under the Co-operative Societies Act ² other than —

- (a) a secondary society as defined in Section 62 of that Act; or
- (b) a society with membership on more than one island;

“the licensing authority” means —

- (a) in relation to a licence referred to in Section 12(1) - a public officer authorized by the Minister under that subsection; and
- (b) in relation to a licence referred to in Section 12(2) - a public officer authorized by the Minister under that subsection; and

“methylated spirit” means spirit denatured in any way, and any mixture containing any such spirit;

“the Methylated Spirit By-laws”, in relation to a Kaupule, the area of authority of a Kaupule, means, subject to Section 23(3), the by-laws of the council made for the purposes of Section 23;

“methylated spirit licence” means a licence granted under Section 12;

“methylated spirit permit” means a permit granted under Section 17;

“permit officer”, in relation to the area of authority of a Kaupule means —

- (a) if under the Methylated Spirit By-laws fees are not charged for the grant of a methylated spirit permit - a person appointed for the purpose by the Secretary to Government; and
- (b) in any other case - the Failautusi ote Kaupule.

4 Exemptions

- (1) Except as otherwise set out in this Act, nothing in this Act applies to the importation, sale, possession or use of methylated spirit —
 - (a) by the Government; or
 - (b) for official purposes by a person in the service of the Government.
- (2) The Minister may, by notice —
 - (a) exempt a person from all or any of the provisions of this Act, on such terms and conditions as seem to him proper; or
 - (b) vary the application of any provision of this Act in its application to any person.

PART II - METHYLATED SPIRIT DRINKING

5 Drinking of methylated spirit

A person who drinks methylated spirit is guilty of an offence, and is liable to a fine of \$100.00 and to imprisonment for three months.

6 Supply of methylated spirit for drinking

A person who supplies methylated spirit to another person knowing, or having reasonable cause to suspect, that he intends to drink it, or to supply it to another person to drink, is guilty of an offence, and is liable to a fine of \$500.00 and to imprisonment for 12 months.

7 Preparation of methylated spirit for drinking

A person who —

- (a) except as authorized by law, removes any denaturant from any methylated spirit; or
- (b) mixes methylated spirit with any substance in order to make it more palatable,

is guilty of an offence, and is liable to a fine of \$100 and to imprisonment for three months.

PART III - IMPORTATION AND SALE**8 Importation**

- (1) Notwithstanding anything in any other Act, methylated spirit may be imported only by —
 - (a) the Tuvalu Co-operative Wholesale Society Limited; or
 - (b) a person specially authorized by the Minister for the purpose.
- (2) Methylated Spirit imported, or attempted to be imported, in contravention of subsection (1) shall be deemed to be prohibited goods for the purposes of the Customs Act.³

9 Wholesaling

The Tuvalu Co-operative Wholesale Society Limited, or a person authorized under section 8(1)(b), may supply methylated spirit only to —

- (a) the Government; or
- (b) an island co-operative society; or
- (c) a person authorized under section 10(1)(b).

10 Retailing

- (1) Methylated spirit may be supplied by retail only by —

- (a) an island co-operative society; or
 - (b) a person specially authorized by the Minister for the purpose.
- (2) Methylated spirit shall not be sold by a hawker.

11 Application of licensing scheme

Nothing in this Part exempts any person from any requirement of this Act.

PART IV - METHYLATED SPIRIT LICENCES

12 Grant of licence

- (1) A public officer authorized by the Minister, by notice, may grant to the Tuvalu Co-operative Wholesale Society, or a person authorized under section 8(1)(b), a licence to —
- (a) import; and
 - (b) possess; and
 - (c) sell by wholesale,
- methylated spirit in quantities specified in or under the licence.
- (2) A public officer authorized by the Minister, by notice, may grant to an island co-operative society, or a person authorized under section 10(1)(b), a licence to —
- (a) purchase from —
 - (i) the Government; or
 - (ii) the Tuvalu Co-operative Wholesale Society Limited; or
 - (iii) a person authorized under section 8(1)(b); and
 - (b) possess; and
 - (c) sell by retail,
- methylated spirit in quantities specified in or under the licence.
- (3) A methylated spirit licence also authorizes, in accordance with the conditions of the licence, the possession and use of methylated spirit, in quantities specified in or under the licence, for the purposes of or purposes connected with the business of the holder of the licence as an importer, wholesaler or retailer, as the case may be.
- (4) A methylated spirit licence shall be in a form approved by the Minister for the purpose.

13 Conditions of licence

A methylated spirit licence is subject to the provisions of this Act and to such other conditions as are specified in the licence.

14 Term of licence

Unless earlier cancelled or suspended under section 16, a methylated spirit licence remains in force for a period of 12 months.

15 Licence fees

No fee is payable for a methylated spirit licence.

16 Cancellation or suspension of licence

- (1) If in his opinion the holder of a methylated spirit licence, or any of its or his servants or agents, has contravened or failed to comply with any provision of this Act or any condition of the licence, the licensing authority may —
 - (a) cancel the licence; or
 - (b) suspend the licence, for such period as he thinks proper.
- (2) A person aggrieved by the cancellation or suspension of a licence may appeal to the Minister, whose decision is final.

PART V - METHYLATED SPIRIT PERMITS

17 Grant of permit

- (1) A permit officer may grant to a householder or to the head of a business a permit to —
 - (a) purchase; and
 - (b) possess; and
 - (c) use for a purpose specified in the permit,methylated spirit in quantities and for purposes specified, subject to the Methylated Spirit Bye-laws, in or under the permit.
- (2) A permit officer shall not grant a methylated spirit permit unless he is satisfied that —
 - (a) there is no other permit in existence for the same household or business, or if there is such a permit it is surrendered; and
 - (b) there is a genuine need for the permit; and

- (c) the applicant is a fit and proper person to hold a permit.
- (3) A methylated spirit permit shall be in a form prescribed in the Methylated Spirit Bye-laws.

18 Conditions of permit

- (1) A methylated spirit permit is subject to the provisions of this Act and to such other conditions as are —
 - (a) prescribed in the Methylated Spirit Bye-laws; or
 - (b) specified in the permit.
- (2) A methylated spirit permit authorizes the purchase, possession and use of methylated spirit only in the area of authority of the Kaupule in which it was granted.

19 Term of permit

Unless earlier cancelled or suspended under section 21, a methylated spirit permit remains in force for such period as is prescribed in or under the Methylated Spirit Bye-laws.

20 Permit fees

- (1) The fee (if any) for a methylated spirit permit is as prescribed in the Methylated Spirit Bye-laws.
- (2) If an island council has made Methylated Spirit Byelaws, the fee (if any) payable for a methylated spirit permit granted in the area of authority of the Kaupule is payable to the council.

21 Cancellation, suspension, etc., of permit

- (1) If in his opinion the holder of a methylated spirit permit, or —
 - (a) if the holder of the permit is a house-holder any member of the household; or
 - (b) if the holder of a permit is the head of a business - any partner, employee or agent of the business,has contravened or failed to comply with any provision of this Act or any condition of the permit, the permit officer may —
 - (c) cancel the permit; or
 - (d) suspend the permit, for such period as he thinks proper,and may order that no new permit issue for a period specified by him.

- (2) A person aggrieved by the cancellation or suspension of a permit may appeal to the island magistrate.

22 Losses, breakages, etc.

If the permit officer is satisfied that —

- (a) any methylated spirit purchased under a methylated spirit permit has been lost due to spilling, breakage, theft or otherwise; and
- (b) the loss was not due to the fault of the holder of the permit; and
- (c) the holder of the permit continues to have a genuine need for the amount of the methylated spirit so lost,

the permit officer may grant a one-off permit to allow the replacement of the methylated spirit so lost.

23 Methylated Spirit Bye-laws

- (1) In accordance with the Falekaupule Act a Kaupule may make bye-laws, not inconsistent with this Act, for regulating and controlling the purchase or sale by retail, and the use and possession, of methylated spirit, and in particular for prescribing —
- (a) the form of methylated spirit permits; and
 - (b) the fees (if any) for such permits; and
 - (c) limitations on the quantity of methylated spirit that may be purchased by retail, or held in possession, at any one time; and
 - (d) standard sizes for containers in which methylated spirit may be sold by retail; and
 - (e) the days on which methylated spirit may be sold by retail; and
 - (f) the records to be kept by retailers and industrial users of methylated spirit.
- (2) A methylated spirit permit may —
- (a) authorize a single purchase only; or
 - (b) authorize purchases over a period.
- (3) If a Kaupule has not made Methylated Spirit Bye-laws, the regulations made under Section 38 may make provision to remedy the default, and in any such case any reference in this Act to Methylated Spirit Bye-laws includes a reference to the regulations so made.

PART VI - ANCILLARY MATTERS

24 Storage, etc.

The regulations made under section 38, and subject to any such regulations the Methylated Spirit Bye-laws, may prescribe requirements for the storage and transport of methylated spirit.

25 Records

- (1) The regulations made under section 38, and subject to any such regulations the Methylated Spirit Bye-laws, may prescribe requirements for records of purchases, sales, possession and use of methylated spirit.
- (2) Records kept in accordance with requirements under subsection (1) shall be made available for inspection by the permit officer, the licensing authority or a person authorized by the Minister for the purpose at any reasonable time.

26 Control of Government methylated spirit

The Secretary to Government shall issue and police rules regulating the procurement, storage, safekeeping, use and accounting for methylated spirit the property of or in the custody or under the control of the Government.

27 Inspection

The permit officer, the licensing authority police officer or a person authorized by the Minister for the purpose may at any reasonable time —

- (a) enter and inspect —
 - (i) the premises of the holder of a methylated spirit licence or methylated spirit permit; or
 - (ii) any industrial premises on which methylated spirit is used for industrial purposes; or
 - (iii) any premises, place, vehicle or vessel in or on which he has reasonable cause to suspect that any methylated spirit may be, to ensure compliance with this Act, the Methylated Spirit Bye-laws and the conditions of any methylated spirit licence or permit; and
- (b) open or require to be opened any container in which methylated spirit is, or in which he has reasonable cause to suspect that methylated spirit may be; and
- (c) take samples of any liquid.

PART VII – OFFENCES GENERALLY

28 Supply of methylated spirit generally

- (1) A person who sells, supplies or uses any methylated spirit otherwise than —
- (a) under a methylated spirit licence or permit; or
 - (b) in accordance with this Act, the Methylated Spirit Bye-laws and the conditions of any methylated spirit licence or permit,
- is guilty of an offence, and is liable to a fine of \$250 and imprisonment for six months.

29 Supply to minors

- (1) Subject to subsection (2), a person who sells or supplies any methylated spirit to a person under 18 years of age is guilty of an offence, and is liable to a fine of \$250 and imprisonment for six months.
- (2) Subsection (1) does not apply to —
- (a) the supply, in accordance with a methylated spirit licence or permit, of any methylated spirit to —
 - (i) a member of a household, for domestic purposes; or
 - (ii) a member, employee or agent of a business that is the holder of a methylated spirit licence or permit, for use for the purposes of the business; or
 - (b) the use, in accordance with a methylated spirit licence or permit by a person referred to in paragraph (a) for the relevant purpose.

30 Unsafe storage

A person who —

- (a) contravenes or fails to comply with any provision of the regulations or Methylated Spirit Bye-laws made for the purposes of section 24; or
- (b) wilfully or negligently leaves any methylated spirit, so that it is likely to be taken by any unauthorized person,

is guilty of an offence, and is liable to a fine of \$250 and imprisonment for six months.

31 Failure to keep records

A person who —

- (a) contravenes or fails to comply with any provision of the regulations or Methylated Spirit Bye-laws made for the purposes of section 25; or
 - (b) fails to make any records available as required under section 25(3),
- is guilty of an offence, and is liable to a fine of \$250.

32 Obstruction

A person who hinders or obstructs any person in the performance of any function under this Act is guilty of an offence, and is liable to a fine of \$250 and imprisonment for six months.

33 General penalty

A person who contravenes or fails to comply with any provision of this Act or the Methylated Spirit Byelaws in a case for which no other penalty is provided is guilty of an offence, and is liable to a fine of \$100 and imprisonment for three months.

34 Forfeiture

Any methylated spirit in relation to which an offence against this Act is committed is forfeited to the Crown, and may be seized by the permit officer, the licensing authority, a police officer or a person authorized by the Minister for the purpose, and shall be disposed of as directed by the Minister.

PART VIII - MISCELLANEOUS

35 Disposal of methylated spirit in certain cases

- (1) Subject to subsection (2), if a methylated spirit licence or permit is cancelled or suspended, or if the holder of such a licence or permit —
 - (a) ceases to carry on the business in respect of which the licence or permit was granted; or
 - (b) being a natural person, dies or becomes of unsound mind; or
 - (c) not being a natural person, is dissolved or wound up,any methylated spirit in the possession of the holder of the licence or permit —
 - (d) shall be seized by a person authorized by the Minister for the purpose; and
 - (e) shall be disposed of, for the benefit of the person entitled to it, as approved by the Minister.

- (2) Subsection (1) does not apply —
 - (a) in relation to a methylated spirit permit granted to a householder for domestic use; or
 - (b) in the circumstances to which section 34 applies.

36 Transferability

- (1) A methylated spirit permit granted to a householder for domestic use is not transferable.
- (2) A methylated spirit licence, or a methylated spirit permit other than a permit referred to in Subsection (1), is not transferable except with the prior consent of the Minister.
- (3) The fee for the transfer of a methylated spirit licence or permit is as prescribed by the regulations made under section 38.

37 Powers of Kaupules

- (1) The Minister responsible for the Falekaupule Act shall make an order under section 45(2) of that Act, amending Schedule 3 to that Act to include a reference to the functions of Kaupules under this Act.
- (2) A failure to comply, or to comply fully, with subsection (1) does not affect the operation of any provision of this Act relating to the functions of Kaupules.

38 Regulations

The Minister may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed in the regulations, or that are necessary or convenient to be so prescribed for carrying this Act into effect.

ENDNOTES

¹ 1990 Revised Edition, Cap. 33A – Act 3 of 1984

² Cap. 40.20

³ Cap. 26.04