

seen

REPUBLIC OF KIRIBATI

(No.3 of 2018)



I assent,

Beretitenti

An Act
entitled

13/10/18

An Act to make provision for the registration and licensing of Kava businesses, control and regulation of responsible practices and procedures in relation to the possession, supply and consumption of Kava by underage persons, penalties for Kava offences and for connected purposes.

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti

PART I – PRELIMINARY

1. Short Title

This Act must be cited as the Kava Act 2018.

2. Interpretation

In this Act, unless the context otherwise requires-

“Analyst” means an analyst appointed under section 27 of this Act.

“Authorized officer” means

- (a) A person appointed to be an authorized officer under section 28;
- (b) A member of the Police Services; or

(c) An Inspector of Licensed Premises appointed under section 17 of this Act,

"kava", whether prepared as a drink or in another form:

(a) means: `

- (i) the plant or a part of the plant *piper methysticum*;
- (ii) a kava lactone ; or
- (iii) a substance produced by chemical synthesis that has the same pharmacological effect as a kava lactone ; and

(b) includes any substance that is not kava or is not identifiable as kava that is used or dealt with by a person together with kava as if it were kava;

"kava lactone" means an extract obtainable from the plant *piper methysticum* that is demethoxy-yangonin, dihydrokavain, dihydromethysticin, kavainmethysticin or yangonin;

"kava plant " means a whole kava plant or a root or part of a root or any other part of a kava plant;

"licence" means a retail licence, a wholesale licence or a Kava Bar Licence issued or renewed by the Kava Licensing Committee established under section 9 of this Act;

"licence area" means any area under the control of Island Councils on each island in Kiribati, that is declared in a Licence to be an area where kava may be sold for consumption;

"licensee" means the holder of a retail licence or a wholesale licence or a Kava Bar licence;

"possession" includes being subject to a person's control notwithstanding that the thing possessed is in the custody of another person.

"premises" includes a structure, building, area of land or other place (whether built on or not) and a part of a structure, building, area of land or place;

"reviewable decision", means the decision of the Kava Licensing Committee reviewable by the High Court;

"sell" includes offer or expose for sale;

"supply" means:

- (a) give, distribute, sell, administer, transport or supply, whether or not for fee reward or consideration or in expectation of fee, reward or consideration;
- (b) have or keep in possession for supply;
- (c) offering to do an act referred to in paragraph (a); or
- (d) doing or offering to do an act preparatory to, in furtherance of, or for the purpose of an act referred to in paragraph (a),

and includes barter and exchange;

"Te Ue" means the presence of an underage female in a Kava Bar for the purposes of serving Kava drinks and as a drinking appetizer to male adults;

"the Secretary" includes any person authorized by the Secretary to exercise his powers and duties under this Act;

"trafficable quantity" means, more than 2 kilograms but less than 25 kilograms of kava;

"Commercial quantity" means, more than 25 kilograms of Kava, but does not include a quantity of kava prepared as a drink;

"vehicle" means any means of transport whether by land or water or through the air;

Purpose

3. The purposes of this Act are as follows:

- (a) To provide for registration and licensing of Kava Businesses.
- (b) To establish mechanisms and procedures for prohibiting and regulating the supply possession and consumption of Kava by underage persons and to encourage responsible practices to reduce health and social problems associated with drinking of Kava.

Application of the Act

4. This Act binds the Republic.

PART II

LICENCE

5.(1) No person shall sell Kava unless he is the holder of one of the following licences –

- (a) Kava Wholesale Licence
- (b) Kava Retail Licence
- (c) Kava Bar Licence

Kava Wholesale Licence

6(1). Any person may apply to the Kava Licensing Committee for a Kava Wholesale Licence.

(2) The holder of a Kava Wholesale Licence that authorizes the sale of Kava, who sells any kava in quantities less than 25 kg and as a Kava drink shall be liable to a fine of not less than \$250.00 and not more than \$ 2,500.00, unless he or she is also a licence holder of a Retail Kava Licence and a Kava Bar Licence.

(3) (a) Any person who consumes kava on or in the vicinity of premises in respect of which a Kava wholesale licence is in force shall be liable to a fine of not less than \$ 250.00 and not more than \$ 2,500.00, unless the owner of the premises and the vicinity upon which the premises is located possessed a Kava Bar Licence.

(b) The holder of a Kava Wholesale licence who permits Kava to be consumed on the licensed premises shall be liable to a fine of not less than \$ 250.00 and not more than \$ 2,500.00 unless he or she is also a licence holder of a Kava Bar Licence.

(c) The holder of a Kava Wholesale licence shall not sell, supply, deliver at or deliver from his licensed premises any kava;

(i) On Sundays and Public Holidays; or

(ii) On any other day except between the hours of 8 a.m. to 9:30 pm.

(4) The holder of a Kava Wholesale who sells or supplies Kava at or from, and any person who buys Kava at or takes Kava from the licensed premises in contravention of this section shall be liable to a fine of not less than \$ 250 and not more than \$ 2,500 unless the holder of the Kava wholesale licence also possess a Kava Bar Licence.

Kava Retail Licence

- 7 (1) Any person may apply to the Kava Licensing Committee for a Kava Retail Licence.
- (2) The holder of a Kava Retail Licence that authorizes the sale of Kava, who sells Kava drinks shall be liable to a fine of not less than \$250 and not more than \$2,500.00, unless he or she is also a licence holder of a kava Bar Licence.
- (3)(a) Any person who consumes kava on or in the vicinity of premises in respect of which a Kava retail licence is in force shall be liable to a fine of not less than \$ 250.00 and not more than \$ 2,500.00, unless the owner of the premises and the vicinity upon which the premises is located possessed a Kava Bar Licence.
- (b) The holder of a Kava retail licence who permits Kava to be consumed on the licensed premises shall be liable to a fine of not less than \$ 250.00 and not more than \$ 2,500.00 unless he or she is also a licence holder of a Kava Bar Licence.
- (c) The holder of a Kava retail licence shall be allowed to sell and supply from his licensed premises any kava;
- (i) From Monday to Saturday between the hours of 8 a.m. to 9:30 pm,
- (ii) But not on Sundays and Public Holidays
- (4) The holder of a Kava Retail licence who sells or supplies Kava at or from, and any person who buys Kava at or takes Kava from the licensed premises in contravention of this section shall be liable to a fine of not less than \$ 250 and not more than \$ 2,500 unless the holder of the Kava retail licence also possess a Kava Bar Licence.

Kava Bar Licence

- 8(1) The holder of a Kava Bar Licence may also sell, in addition to Kava cigarettes, tobacco, matches and non-alcoholic beverages.
- (2) The permitted hours in any licensed premises (area) in respect of which a Kava Bar Licence has been granted shall be as follows;
- | | | |
|---|---|------------------|
| (a) from Monday to Thursday | - | from 5pm to 1am |
| (b) on Friday, Saturday and Public holidays | - | from 5pm to 2am |
| (c) on Sunday | - | from 2pm to 1am. |

- (3) A Kava Bar licence is granted for the purpose of selling Kava or supplying Kava in or from a Kava Bar licensed premises (area), whether to be consumed on or off the premises during the permitted hours as stated under section 8(2) of this Act.
- (4) The holder of a Kava Bar Licence shall maintain a quiet environment by not producing unnecessary noise that will interfere with the peace and quiet enjoyment of the neighbourhood during the permitted hours.
- (5) The holder of a Kava Bar Licence in respect of premises not exclusively or mainly used for the sale of Kava may, having obtained a permit from the Kava Licensing Committee and on payment of the prescribed fee, sell or supply Kava during such hours as stated under subsection 2 above.
- (6) The holder of a Kava Bar licence shall keep painted on the front of his licensed premises, in letters at least 2 inches high, his name in full followed by the words – “licensed Kava Bar”
- (7) The holder of a Kava Bar licence who has obtained a permit under section 8(3) above shall affix such permit in a conspicuous place on his licensed premises (area).
 - (a) The licensee who fails to comply with the requirements of this section shall be liable to a fine of not more than \$250 and not less than \$2,500.
- (8) The holder of a Kava Bar licence shall install toilets in his or her Kava Bar for the use of his customers.
 - (a) A licensee who fails to comply with the requirements of this section shall be liable to a fine of not less than \$ 250 and not more than \$ 2,500
- (9) Any person may apply for the three(3) different types of Licence provided that he or she complies with the conditions for each type of Licence.

Conferral of Jurisdiction

Licensing Authority

9 (1) The Minister may by notice –

- (a) Appoint 1 or more Kava licensing committees each consisting of a chairman and not less than 2 other members, and
- (b) Define the part or area of Kiribati over which a Kava licensing committee so appointed shall exercise its authority.

- (2) A member of a committee shall hold office until –
- (a) his appointment is revoked, or
 - (b) he submits his resignation in writing to the Minister.
- (3) In the absence of the chairman from any meeting of a committee, the other members present shall appoint 1 of them to act as chairman.
- (4) Three members of a committee, including the chairman shall form a quorum.

Functions of committee

- 10 (1) The functions of a committee, in respect of the licences that may be issued under this Act are to consider and determine all applications –
- (a) for the grant and renewal of licence, and
 - (b) for cancellation or variation of the terms of any licence.
- (2) In the exercise of its functions under subsection (1), any decision of the committee, subject to section 18 shall be final.

Jurisdiction of Committee

- 11(1) Applications for licences shall be made to the committee of the area in which the area or premises intended to be licensed are situated.
- (2) A committee before granting any licence shall be satisfied that –
- (a) the premises or area to which the application relates are fit and proper for the purpose of selling Kava, having regard to the type of licence applied for,
 - (b) the parts of the premises on which Kava is to be stored and sold are sufficiently defined in the application, or delineated on a plan annexed thereto, and
 - (c) the premises or area to which the application relates especially for a Kava Bar licence have toilets for use by any person..
- (3).The Kava Licensing Committee may by notice declare an area to be a prohibited area in relation to the drinking of Kava. The notice may be amended anytime by the Committee.

PART III- ADMINISTRATION

Division 1- Register

12. The Secretary of the Ministry responsible for Internal Affairs must –
- (1) establish a register of persons licensed to sell and supply Kava;
 - (2) keep the register up to date;
 - (3) The register may be kept wholly or partly by computer; and
 - (4) Any person may inspect the register or a copy of it free of charge during normal office hours.

APPLICATION FOR A LICENCE

LICENCE

PROCEDURE RELATING TO LICENCE

Notice of Licence

- 13(1) No application shall be entertained by a committee unless such application has reached the committee at least 28 days or 4 weeks before the day of the meeting at which such application is to be considered.
- (2) (a) A committee shall hold its annual meeting in November of each year but shall meet at such other times as may be necessary for the transaction of licensing business.
- (b) A committee shall give at least 2 months notice of the time, day and place appointed for its annual meeting by –
- (i) publishing such notice in any Government publication, or
 - (ii) causing such notice to be posted at each police station in the Kava licensing area.
- (3) The Committee shall within 10 days before any meeting cause to be published –
- (a) in a government publication, or

(b) by posting at each police station in the licensing area, a list containing the names of applicants whose applications are to be considered at that meeting, the type of licence, the nature of the application, whether for a grant, renewal, or removal and the address of the premises to which the application refer.

(4) An application for the grant and renewal of a Kava Bar licence may require that any of the following information is to be provided by an applicant in support of an application for a Kava Licence:

(a) in the case of an applicant (whether alone or jointly with another person or as a partner) who is a natural person:

- (i) the name of the applicant;
- (ii) the residential and business addresses of the applicant;
- (iii) 4 written references as to the character of the applicant;
- (iv) a written curriculum vitae of the applicant; and
- (v) details of criminal record of the applicant.

(b) in the case of an applicant (whether alone or jointly with another person or as a partner) who is a company:

- (i) the name of the applicant;
- (ii) the names of the directors, associates and other officers of the applicant;
- (iii) the addresses of the registered office and principal place of business of the applicant;
- (iv) a certified copy of the certificate of incorporation of the applicant;
- (v) a certified copy of the constitution or rules of the applicant; and
- (vi) a certified copy of a search showing the date of incorporation, principal place of business and the names of the directors, secretaries and shareholders of the applicant.

(c) in the case of an applicant (whether alone or jointly with another person or as a partner) who is an incorporated association:

- (i) the name of the applicant;

- (ii) the names of the public officer, committee members and other officers of the applicant;
 - (iii) the address where the business of the applicant is being carried on;
 - (iv) a certified copy of the certificate of incorporation of the applicant;
and
 - (v) a certified copy of the constitution of the applicant.
- (d) if 2 or more persons making an application are partners – a copy of their partnership agreement.
- (e) if an applicant will be conducting business under the licence the subject of the application under a business name registered under the Registration of Business Names Act – a copy of the entry in the Registration of Business Names provided by ministry responsible under that Act showing the registration.
- (f) The details of the:
- (i) premises and the area that the applicant will use;
 - (ii) number of employees or agents the licensee will engage;
 - (iii) manner of importation of the kava into Kiribati Jurisdiction or the licence area concerned;
 - (iv) manner in which the applicant proposes to purchase or otherwise be supplied with, sell and store the kava; and
 - (v) a statement of intent or a plan to support and implement health measures or health programs of the Ministry responsible for health and medical services relating to the control of Kava drinking as the holder of the licence for facilitating minimization of harm and other responsible practices relating to the supply, possession and consumption of Kava.
- (5) Upon the grant of an application for the grant, renewal of a licence, the committee shall issue to the applicant a certificate in the appropriate form; Form 4 in Schedule 1 of this Act.
- (6) The applicant shall present his certificate to the Secretary who, upon receipt of the appropriate licence fee, shall issue the licence accordingly. The types of Licence Forms are provided in Schedule 1 as follows:

- (a) Kava Retail Licence in Form 1;
- (b) Kava Wholesale Licence in Form 2; and
- (c) Kava Bar Licence in Form 3.

(7) A certificate shall be void unless presented to the Secretary, together with the appropriate licence fee, within 2 months of the date of its issue.

Licence Fees

14. The Licence Fees shall be paid into and form part of the revenue of the particular Local Government Council on each Island, however in any other case, such fees or fines shall be paid into the consolidated fund.

Fees

15. The fees payable in respect of a Kava Retail Licence, a Kava Wholesale Licence and a Kava Bar Licence shall be those listed in Schedule 2 of the Act.

16. The Minister, acting in accordance with the advice of Cabinet, may by order amend Schedule 2.

Objections

17. (1) Objections to the grant of any certificate under this Act may be made to the committee by –

- (a) any other licensee in the licensing area, or any 3 or more residents of the licensing area, in which the premises to which the applications refers are situated or intended to be situated;
- (b) any police officer; or
- (c) any sanitary inspector or any person authorized in writing by the Secretary on any of the following grounds –
 - (i) that frequent breaches of the law have occurred on the licensed premises
 - (ii) that the premises intended to be licensed are unhygienic or otherwise unsuitable for the sale of kava;

- (iii) that the reasonable requirements of the neighborhood do not justify the issue of the licence.

Case Stated

18. Any applicant or objector aggrieved by a decision of a committee on the ground that it is erroneous in point of law may apply to that committee to state a special case to the High Court and the committee shall state a case accordingly.

Gathering of underage at night for the purpose of drinking kava

19.(1) Where an individual person or a group of persons is or are found in a public place between the hours of 10:00pm and 6:00am roaming around without any reasonable reasons, the officer in charge of the police station in the area where that place is, upon reasonable suspicion that the individual person or the group of persons is or are under the age of 18 years old and the purpose of their gathering is to drink Kava, shall execute the following orders:

- (a) Order the individual or the group of individuals to disperse and leave the area at once.
- (b) Order that the individual or the group of individuals return to their respective homes at once.

(2) Any person refusing, resisting or obstructing the executions of the police officer's order commits an offence.

(a) in the case of a first offender the police shall give him a warning.

(b) However, a repeat offender shall be taken to court and the court may deal with him or her as follows:

- (i). if he or she is under 18 years old, in a manner prescribed for penalizing juveniles under the relevant provisions of the Juvenile Justice Act 2015.

PART IV – ENFORCEMENT OFFENCES

Supply and Consumption of kava

20(1) A person must not supply kava to another person, or take part in the supply of kava to another person, unless doing so in accordance with a licence.

Maximum penalty: In the case of a quantity less than the trafficable quantity a fine of not less than \$100 and not more than \$250 or imprisonment for 6 months.

- (a) In the case of a trafficable quantity a fine of not less than \$250 and not more than \$2500 or imprisonment for 2 years.
 - (b) In the case of a commercial quantity a fine of not less than \$500 and not more than \$5,000 or imprisonment for 5 years.
- (2) If any person holding a licence, sells or exposes for sale any Kava, except at the place at which that licence authorizes him to sell that Kava shall be liable to a fine of not less than \$250 and not more than \$2,500.
- (3) Any person not holding a licence on whose premises, a sign writing, painting or other mark is exhibited which may imply or give reasonable cause for believing that such premises (area) are licensed for the sale of Kava or that Kava is sold or supplied therein shall be liable to a fine of not less than \$250 and not more than \$2500.
- (4)(a) A licensee in respect of a Kava Bar licence only may refuse to admit to or may expel from the licensed premises (area) any person who is violent, quarrelsome or who is using foul language and a drunken person.
- (b) If any person contravenes the above subsection, after being requested by the licensee or his servant or agent or any police officer to leave the premises, fails to do so, he shall be liable to a fine of not less than \$100.00 or not more than \$250.
- (5) A police officer shall, on the demand of the licensee in respect of a Kava Bar Licence or his servant or agent expel from the licensed premises a person liable to be expelled under this section and may use any reasonable degree of force requested for that purpose.
- (6) A justice of the peace, magistrate or any appropriate judicial officer upon being satisfied by information on oath that there is reasonable ground for believing that any Kava is sold or exposed or kept for sale at, or in a place not licensed. for such purpose, may issue a search warrant to a police officer authorizing him to enter that place which shall be named in the warrant, by use of reasonable force if need be, and search the place for Kava and search and remove any Kava that

the police officer has reasonable grounds for supposing to be in the place for the purpose of unlawful sale there or elsewhere, and the receptacles containing such Kava.

- (7) Where a police officer search any Kava in pursuance of a warrant under this section, any person found in the place shall, unless he proves that he is there for a lawful purpose, be liable to a fine of \$ 250.00

Production of Identity Card by a Person

21. The holder of a Kava Licence, if he believes on reasonable grounds that a person is under 18 years old, is entitled to demand from that person a disclosure of any form of identity card for the purpose of ascertaining the age of that person.

22. Upon ascertaining the age of a person to be under 18 years old, the Kava licence holder of a Wholesale, Retail or Kava Bar Licence shall not sell Kava to that person and in the case of a Kava Bar Licence holder he or she shall demand a police officer to expel such person or to order that such person leave the licence area(premises) immediately.

23 (1) A person must not supply kava to:

- (a) a person who has not attained the age of 18 years; or
- (b) a person who the person knows or has reason to believe will supply the product to a person who has not attained the age of 18 years.

Maximum penalty: In the case of a quantity less than the trafficable quantity – a fine of not less than \$100 dollar and not more than \$250 or imprisonment for 6 months.

In the case of a trafficable quantity – a fine of not less than \$250 and not more than \$2500 or imprisonment for 2 months.

In the case of a commercial quantity – a fine of not less than \$500 and not more than \$5,000 or imprisonment for 5 years.

- (2) A person must not send a person who has not attained the age of 18 years to purchase or collect kava from any person or a licensee.

Maximum penalty: In the case of a quantity less than the trafficable quantity – a fine of not less than \$100 and not more than \$250 or imprisonment for 6 months.

In the case of a trafficable quantity – a fine of not less than \$250 and not more than \$2,500 or imprisonment for 2 years

In the case of a commercial quantity – a fine of not less than \$500 and not more than \$5,000 or imprisonment for 5 years.

(3) A holder of a Kava Bar licence commits an offence if he or she allows:

(a) a person who has not attained the age of 18 years; or

(b) a person who the licence holder knows or has reason to believe will allow a person who has not attained the age of 18 years,

to consume Kava in the licence area or licensed premises

Maximum Penalty: a fine of not less than \$250 and not more than \$2,500 or imprisonment for 2 years.

(4) A holder of a Kava Bar Licence commits an offence if he or she allows; a female person under the age of 18 years to be present in the Kava licence area for the purpose of consuming Kava as well as performing acts known as 'Te Ue' to any adult males drinking Kava in such licence area.

Penalty: a fine of not less than \$250 and not more than \$2,500 or 2 years imprisonment

(a) and any acts amounting to a sexual offence shall be prosecuted and penalized under the Penal Code or any other related laws.

PART V – MISCELLANEOUS

Cancellation of Licences

24(1) Without prejudice to any other provisions of this Act, if the holder of a licence is-

(a) sentenced to imprisonment for a term exceeding 6 months;

(b) convicted within a period of 12 months of a second offence against this Act;

(c) convicted of failing to comply with any of the conditions of his Kava Bar licence in particular the Kava Licensing Committee, in the case of paragraph (a); and the court upon conviction, in the case of paragraph (b) or (c), may cancel the licence.

25(1) Notwithstanding anything contained in this Act, the Minister may by order, whenever he deems it expedient to do so, direct the closure of any licensed (premises) area on such day or days and for such times as may be specified in the order.

(2) A licensee who fails to comply with an order made under subsection (1) shall be liable to a fine of not less than \$250 and not more than \$2,500.

26. Without prejudice to any other provisions of this Act, whenever a police officer believes on or has reason to believe that an offence has been, or is being, or is about to be committed under this Act, he may seize and take away all Kava and all receptacles and articles connected with such offence, and the same may, upon conviction in respect of such offences, be forfeited by the court.

Appointment of Analyst

27 The Minister may by notice in the Gazette appoint a person to be an analyst for the purposes of carrying out the sampling, analysis or examination of a thing seized under this Act, if there is a dispute as to the confirmation of whether or not a thing seized is a kava.

Authorized Officers

28 The Minister may by notice in the Gazette appoint a person to be an authorized officer for the purposes of this Act.

Forms

29.(1) A Licence shall be in the appropriate form contained in Schedule 1

(2) The Minister may by order amend the form contained in Schedule 1.

30. The Minister, acting in accordance with the advice of Cabinet, may make regulations for all or any of the following matters-

(1) dispensing with or relaxing any of the provision of this Act in respect of any licensing area and in relation to any person or class of persons

(2) generally carrying into effect the provisions of this Act.

SCHEDULE 1

(Section 13(6)(a))

FORM 1

KAVA RETAIL LICENCE

In accordance with the certificate of the Kava Licensing Committee for (a) dated the day of 201.. and the prescribed fee having been paid, (a) (b)..... is hereby granted to (c)..... of

In respect of the following premises (d)

.....
.....
.....
.....

This Licence is issued subject to the following conditions (e) –

- (1) not allowed to sell or supply to an underage. The meaning of underage is stated under section 2 of this Act.
- (2) If applicant sells and supplies kava drink and also allows drinking on premises applicant must possess a Kava Bar Licence
- (3) If in possession of a Kava Bar Licence, applicant must comply with all requirements or conditions stated under Kava Bar Licence.
- (4) Not allowed to sell on Sundays and Public Holidays.
- (5) including any other conditions that the Kava Licensing Committee may deem fit to impose on the licensee

.....

This Licence will expire on the 31st December 20..., unless earlier cancelled.

Dated this day of 20...

Chairman .

(Section 13(6)(b))

FORM 2

KAVA WHOLESAL licence

In accordance with the certificate of the Kava Licensing Committee for (a) dated the day of 20... and the prescribed fee having been paid, (a) (b)..... is hereby granted to (c)..... of

In respect of the following premises (d)

.....
.....
.....

This Licence is issued subject to the following conditions (e) –

- 1) not allowed to sell or supply an underage. The meaning of underage is stated under section 2 of the Act.
- 2) only allowed to sell and supply in quantities of not less than 25 kg
- 3) If applicant sells in quantities less than 25 kg then applicant must possess a Kava Retail Licence
- 4) Not allowed to sell Kava as a drink on premises unless in possession of a kava Bar Licence.
- 5) Not allowed to sell and supply Kava on Sundays, public holidays unless in possession of a Kava Bar Licence.
- 6) Allowed to sell between the hours of 8:00 am to 6:00 pm, unless in possession of a Kava retail or Kava Bar Licence.
- 7) including any other conditions that the Kava Licensing Committee may deem fit to impose on the licensee

This Licence will expire on the 31st December 20..., unless earlier cancelled.

Dated this day of20...

Chairman

(Section (13)(6)(c))

FORM 3

KAVA BAR LICENCE

In accordance with the certificate of the Kava Licensing Committee for (a) dated the day of 20... and the prescribed fee having been paid, (a) (b)..... is hereby granted to (c)..... of

In respect of the following premises (d)

.....
.....
.....
.....

This Licence is issued subject to the following conditions (e) –

- 1) The holder of a Kava Bar Licence shall keep painted on the front of his licensed premises, in letters 2 inches high, his name in full followed by the words Licenced Kava Bar or Licensed to retail Kava drink.
- 2) Not allowed to sell and supply in Wholesale and Retail unless in possession of both the Kava Wholesale Licence and the Kava Retail Licence.
- 3) That the premises or area is a fit and proper place for selling Kava Drink
- 4) That the premises or area is fitted with proper toilets
- 5) That the licensee shall ensure not to produce unnecessary noise to the neighborhood during the permitted hours.

6) That "Te Ue" is not allowed inside the Kava Bar. The meaning of "Te Ue" is to be found in section 2 of the Act.

7) including any other conditions that the Kava Licensing Committee may deem fit to impose on the licensee.

.....
.....

8).....

etc.

This Licence will expire on the 31st December 2017, unless earlier cancelled.

Dated thisday of2017

.....

Chairman

SCHEDULE 1

(Section 11(1))

FORMS OF CERTIFICATES FOR LICENCES

FORM 4

(For issue or renewal)

This certificate authorizes the Secretary to issue/renew (a) a
(b).....in the name of (c)in respect of
the following premises (d) –

.....
.....
.....

subject to the following conditions (e) –

- 1.
- 2.
- 3.

Dated thisday of, 20...

Kava Licensing Committee for (f).....

Notes.

- (a) Delete whichever is necessary
- (b) State Category of licence whether for a Kava Retail Licence, Kava Wholesale or a Kava Bar Licence
- (c) State name of licensee

(d) State locality and give full description of premises or of parts thereof in respect of which the licence is granted.

(e) Insert conditions, if any.

(f) State Licensing area.

Dated thisday of2017

.....

Chairman

SCHEDULE 2

FORM 1

KAVA LICENCE FEES

\$

Kava Retail Licence.....

Kava Wholesale Licence.....

Kava Bar Licence.....

Explanatory Memorandum

The main purpose of the Kava Bill is simply to formally regulate the use of Kava as a drink by members of the general public in the Kava Bars because of the negative social, economic and health problems caused by Kava drinking, especially the non-productivity if members of the general public to carry out their daily activities in their respective communities because of the effect of drinking Kava. There was no law before that specifically regulate Kava drinking especially in the Kava Bars. This bill addresses the social, economic and health problems associated with drinking of Kava and also the protection of the category of persons known as under age persons from involving with the Kava drinking especially female underage by making it an offence for those businesses selling Kava to sell and supply an underage with Kava drink.

The Bill consist of five (5) Parts;

Part I – Preliminary

This part deals with short title of the Act, commencement date, the interpretation section, the purposes of the Act and the Application of the Act.

There are two main purposes of the Act, the first one is registration and licensing of Kava businesses and the second one is to establish mechanisms and procedures for prohibiting and regulating the supply possession and consumption of Kava by underage persons and to encourage responsible practices to reduce health and social problems associated with drinking of Kava.

Part II – Types of Kava Licence

This part deals with the types of licence , (a) Kava Wholesale Licence (b) Kava Retail Licence and (c) Kava Bar Licence:

The 3 (three) types of licences stated above, have been identified and intended to apply in relation to the way Kava has been and is now being traded and used as a drink to members of the public. That it can be sold by wholesale and retail, however the main focus of the Act is to regulate drinking of Kava inside the Kava Bars where Kava powder had been prepared for drinking purposes. Thus, the Act regulates wholesales and retail as well as selling Kava as a drink in the Kava Bars through the three different types of Licence stated above. The applicant therefore is required to comply with the conditions of the particular type of licence he or she

has applied for, and non-compliance will make him or her liable to a fine and /or imprisonment. However, the Act also allows for an applicant to apply for all the three kinds of Licences, in which case, he or she will then be required to pay for all those different kinds of Licence fees, but in this case he or she will not be susceptible to the penalties prescribed under the Act. In addition, an applicant applying for all the three types of Licences is required to fulfill or to comply with all the requirements of all the types of Licences especially for a Kava Bar Licence, and non-compliance will render his or her application to the committee not being granted or not being renewed.

The holder of a Kava Bar Licence shall keep painted on the front of his licensed premises in at least 2 inches high, his name in full followed by the words "licensed Kava Bra" Kava Bar Licence. The Kava Licence allows for the sale of cigarettes, tobacco, matches and non-alcoholic beverages in addition to Kava drink and the permitted time in which to open and close are from 6:00 pm to 12:00 am. The holder of a Kava Bra Licence shall maintain a quiet environment by not producing unnecessary noise that will interfere with the peace and quiet enjoyment of the neighborhood during the permitted hours. In addition, the Kava Bar Licence also requires the holder to install toilets for use by customers.

Part III – Administration

This part deals with administration by establishment of a register of persons licenced to sell and supply Kava, the Secretary of the Ministry responsible for Internal Affairs has been entrusted with responsibility of administering the register. This part also provides for a procedure relating to applications to the Kava Licensing Committee for the three types of Kava Licences. For a grant or renewal an applicant must furnish Committee with the following information; name of applicant (Whether alone or jointly with another person as a partner) who is natural persons, the name of applicant, residential and business addresses etc under section 13(4) (a)(i) to (v). In the case of applicant (whether alone or jointly with another person or as a partner) who is a company, the things required under section 13(4)(c)(i) to (vi). In the case of an applicant (whether alone jointly with another person or as a partner) who is an incorporated association the things required: the things required under section 13(4)(c)(i) to (v). If 2 or more persons making an applications are partners – a copy of their partnership agreement (section 13(4)(d). If an applicant will be conducting business under the licence of the subject of the application under a business name registered under Registration of Business Names provided by Ministry responsible under that Act showing the registration. (Section 13(4) (e)). Also under section 13(4) (f) an applicant is required to disclose details of the premises and the area that the applicant will use, number of employees or agents the licensee will engage, manner of

importing Kava to Kiribati and a statement of intent or a plan to support and implement health measures or health of Ministry responsible for health and medical services relating to control of Kava drinking.

Under section 13(6) Upon the grant of an application, the committee shall issue to the applicant a certificate in the appropriate form; Form 4 in schedule 1 of the Act. The applicant shall present her or his certificate to the Secretary who upon receipt of the appropriate licence fee shall issue the type of license accordingly.

Part IV – Enforcement

A person not holding a Kava Licence on whose premises a sign is put up that he or she sells Kava may also be liable to a fine under section 20(3). A Kava Bar licence holder has the right not to admit persons who are violent, quarrelsome drunk etc under section 20(4) (a). A police officer may also assist to expel a person from a Kava Bar who is quarrelsome, drunk etc under instruction of a Kava Bar Licence Holder. A justice of the peace or magistrate upon satisfied that by information on oath that there is reasonable ground for believing that any Kava is sold or exposed or kept for sale, in a place not licensed for such purpose to issue a warrant for the search of the place by a police officer. A person found near the place searched by the police officer shall be liable to a fine under section 20(7). The Holder of any of the three Kava Licences is allowed to ask card for the purposes of ascertaining his or her age and upon ascertaining that he or she is an underage such holder of a Kava Licence is entitled not to sell Kava to that person. A person who supply Kava to an underage herein referred to as under 18 years old, is liable to a fine under section 23(1) (b). A person who send an underage to purchase or collect Kava from any person or licensee is liable to a fine under section 23(2). A holder of a Kava Bar Licence who allow an under age to consume Kava drink is liable to a fine under section 23(3). A holder of a Kava Bar Licence who allows a female person under the age of 18 years to be present in the Kava Bar for “Te Ue” purposes is liable to a fine under section 23(3)(4).

Part V – Miscellaneous

This part deals with the cancellation of licence under section 24(1) in circumstances where, the holder of a licence is sentenced to imprisonment, a repeat offender and convicted of failing to comply with any of the conditions of his licence.

The Ministers powers are stated under section 25(1) to close down any licence area under an order. Under section 26, it provides a police officer with a power to seize and take away all

Kava if he has a reason to believe that an offence has been, or is being , or is about to be committed under the Act. Likewise upon conviction such Kava can be forfeited by the court. Section 27 provides for appointment of Analyst by the Minister, whilst section 28 provides for the Minister's power to appoint a person to be an authorized officer for the purposes of this Act.

And finally section 30 provides for the Minister power, acting in accordance with the advices of Cabinet, to make regulations for the dispensing with or relaxing any of the provisions of this Act in respect of any licensing area any person or class of persons and for the general carrying into effect of the provisions of this Act.

Hon.Kobebe Taitai

Minister for Ministry of Internal Affairs

Legal Report


I Hereby that in my opinion none of the provisions of the above Act conflicts with the constitution and the Honorable Minister my properly assent to the Act

Ms Tetiro Maate Semilota

Attorney General

CERTIFICATE OF THE CLERK OF THE MANEABA NI MAUNGATABU

This printed impression of the Kava Act 2018 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 24th April 2018 and is found by me to be a true and correctly printed copy of the said Bill.



Eni Tekanene

Clerk of the Maneaba ni Maungatabu

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