

LIQUOR ACT

R-008-2008

Registered with the Registrar of Regulations

2008-03-04

WHALE COVE LIQUOR RESTRICTION REGULATIONS

WHEREAS the Minister has declared, under subsection 49(3) of the *Liquor Act* and every enabling power, all that portion of Nunavut that lies within a radius of 30 kilometres from the Whale Cove Hamlet Office to be a restricted area;

The Commissioner, on the recommendation of the Minister, under subsection 49(5) of the *Liquor Act* and every enabling power, makes the *Whale Cove Liquor Restriction Regulations*.

Interpretation

1. In these regulations,

"applicant" means a person applying to the Committee for permission to

- (a) purchase, possess or transport liquor in the restricted area,
- (b) import or bring liquor into the restricted area, or
- (c) make beer or wine in the restricted area; (*demandeur*)

"Committee" means the Whale Cove Alcohol Education Committee; (*comité*)

"member" means a member of the Committee; (*membre*)

"restricted area" means all that portion of Nunavut that lies within a radius of 30 kilometres from the Whale Cove Hamlet Office. (*secteur de restriction*)

Alcohol Education Committee

2. (1) The Whale Cove Alcohol Education Committee is established.

(2) The Committee's functions include the education and counselling of persons in the use of alcohol for the purpose of preventing alcohol abuse.

3. The Committee consists of seven persons.

4. (1) Six members of the Committee shall be elected in the same manner and on the same day as councilors of the Whale Cove Hamlet Council.

(2) One member of the Committee shall be designated by the Whale Cove Hamlet Council.

(3) The term of office of a member of the Committee is two years.

(4) The provisions of the *Local Authorities Elections Act* apply, with such modifications as the circumstances require, to the election of members of the Committee.

5. (1) The members of the first Committee shall be elected on March 18, 2008, with an advance poll to be held on March 11, 2008.

(2) Despite subsection 4(4), notice calling for nomination of candidates for the first Committee must be given not later than seven days before the time for nominating candidates expires.

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(3) Despite subsection 4(4), candidates for the first Committee may be nominated in the period beginning on the day on which the notice calling for nomination of candidates is given and ending 11 days before election day.

(4) Despite subsection 4(4), candidates may campaign for the period beginning 11 days before election day and ending one day before election day.

6. (1) In the event of a vacancy on the Committee, the candidate at the last election for the Committee who received the highest number of votes among the candidates who were not elected may fill the vacancy until the expiration of the term of the vacancy.

(2) Where the candidate referred to in subsection (1) refuses or is unable to fill the vacancy on the Committee, the Committee shall successively offer the office to the candidate who received the next highest number of votes among the candidates who were not elected until a candidate agrees to fill the vacancy.

(3) Where the vacancy cannot be filled by the procedure set out in subsections (1) and (2), the Committee shall designate a person to fill the vacancy.

7. A person may not sit as a member of the Committee if
- (a) the person's eligibility to possess, purchase or transport liquor in, or import or bring liquor into, the restricted area is withdrawn under subsection 19(5);
 - (b) the person is disqualified from applying to the Committee under subsection 23(2); or
 - (c) the person is prohibited from purchasing or possesses liquor under subsection 104(1) or 117(1) of the *Liquor Act*.

Procedures

8. The Committee shall select a chairperson, vice-chairperson and secretary from among its members.

9. The chairperson shall call meetings of the Committee as necessary to transact the business of the Committee.

10. A quorum of the Committee is four members.

11. (1) The decisions of the Committee are made by a majority vote of the members present.

(2) Subject to subsection 12(1), each member may vote in a decision of the Committee.

12. (1) A member shall declare any interest in a matter before the Committee, and shall not vote on any matter in which he or she or a relative has an interest.

(2) For the purposes of subsection (1), "relative" means

- (a) the spouse of the member; or
- (b) a grandparent, parent, brother or sister, child or grandchild of the member or of the member's spouse.

13. The secretary shall keep minutes of all meetings and a record of decisions made by the Committee.

14. All records of the Committee are confidential.

15. Where these regulations require the Committee to give notice to any person, the notice must be served personally or sent to the person by registered mail.

16. Subject to these regulations, the Committee may establish rules to govern its proceedings.

Applications

- 17.** (1) A person may apply to the Committee for permission to
- (a) purchase, possess or transport liquor in the restricted area;
 - (b) import or bring liquor into the restricted area; or
 - (c) make beer or wine in the restricted area.
- (2) The application must be made on a form approved by the Committee.
- 18.** (1) The chairperson shall give written notice to each applicant informing the applicant of the time, date and place of the meeting at which the application will be considered.
- (2) An applicant has the right to
- (a) attend and be heard at the meeting at which his or her application is considered; and
 - (b) be represented by a lawyer or another person.
- 19.** (1) The Committee may approve, vary or refuse any application in whole or in part.
- (2) The Committee may refuse, partially approve or vary an application where the Committee finds that the applicant has, by the abuse or excessive use of liquor,
- (a) harmed or threatened to harm himself or herself, a member of his or her family or a member of the restricted area; or
 - (b) disrupted the peace of his or her family or the community.
- (3) The Committee may refuse or vary an application where the applicant has sold, given or transferred liquor to a person who was subject to ineligibility under subsection (5) or disqualification under subsection 23(2).
- (4) Where a decision is made to approve or partially approve an application, the Committee shall state the quantity of liquor that the applicant may possess, purchase or transport in, or import or bring into, the restricted area, or the quantity of beer or wine that the applicant may make in the restricted area.
- (5) The Committee may, in accordance with subsection 50(1) of the *Liquor Act*, withdraw the eligibility of a person to possess, purchase or transport in, or import or bring into, the restricted area, for a period of not more than one year.
- (6) Where a decision is made to partially approve or refuse an application, or to withdraw a person's eligibility, the Committee shall state the reasons for its decision.
- (7) The Committee shall give the applicant written notice of its decision and, where a decision is made under subsection (5) or (6), reasons for its decision.

Appeals

- 20.** (1) A person aggrieved by a decision of the Committee may appeal to a justice of the peace within 30 days after receiving notice of the decision.
- (2) The justice of the peace may, after holding a hearing, confirm, vary or set aside the decision of the Committee.
- (3) The decision of the justice of the peace is final.

Offences and Penalties

- 21.** No person shall, without prior permission of the Committee,
- (a) purchase, possess or transport liquor in the restricted area;

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- (b) import or bring liquor into the restricted area; or
- (c) make beer or wine in the restricted area.

22. No person shall, in the restricted area, possess liquor that has been purchased or imported or brought into the restricted area, or beer or wine that has been made in the restricted area, in contravention of these regulations.

23. (1) Every person who contravenes section 21 or 22 is guilty of an offence and liable on summary conviction

- (a) in the case of a first offence to a fine of \$100, or to a term of imprisonment not exceeding 30 days, or to both;
- (b) in the case of a second offence to a fine of \$200, or to a term of imprisonment not exceeding 30 days, or to both;
- (c) in the case of a third offence to a fine of \$500, or to a term of imprisonment not exceeding 30 days, or to both; and
- (d) in the case of a subsequent offence to a fine of not less than \$500 and not more than \$5,000, or to a term of imprisonment not exceeding 30 days, or to both.

(2) Where a person is convicted of an offence under subsection (1), the justice may order that the convicted person be disqualified from applying to the Committee for approval to purchase or possess in, or to import or bring liquor into, the restricted area, or to make beer or wine in the restricted area for a maximum period of one year.

(3) Where the justice issues an order of disqualification under subsection (2), the Clerk of the Nunavut Court of Justice shall, without delay, give a written notice of the order to the Committee.

Commencement

24. (1) Subject to subsection (2), these regulations come into force on the day on which they are registered with the Registrar of Regulations.

(2) Sections 17 to 23 come into force on April 1, 2008.