



Tonga

# **INTOXICATING SUBSTANCES ACT 2021**

**Act 20 of 2021**





# INTOXICATING SUBSTANCES ACT 2021

## Arrangement of Sections

### Section

1	Short Title .....	5
2	Interpretation.....	5
3	Offence to inhale or consume intoxicating substances .....	6
4	Supply of intoxicating substance to a person under the age of 18 years.....	6
5	Supply of intoxicating substances for inhalation .....	6
6	Power to seize intoxicating substance from a person .....	6
7	Regulations .....	7





# INTOXICATING SUBSTANCES ACT 2021

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## AN ACT TO PROHIBIT THE MISUSE OF INTOXICATING SUBSTANCES AND FOR RELATED PURPOSES

I assent,  
TUPOU VI,  
28<sup>th</sup> October 2021.

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

### 1 Short Title

This Act may be cited as the Intoxicating Substances Act 2021.

### 2 Interpretation

In this Act, unless the context otherwise requires –

“**Minister**” means the Minister of Police;

“**intoxicating substances**” include –

- (a) plastic solvents, cleaning agents, glues, lighter fluids, petroleum or petroleum based products, paint thinners, aerosol propellants; or
- (b) any other substance having the property of releasing toxic vapours or fumes and which when inhaled or consumed induces or causes a state of intoxication, euphoria, exhilaration, distort or any other mind-altering effect;

- (c) but does not include –
- (i) medicinal drugs within the meaning of the Therapeutic Goods Act being used for their specific lawful purposes;
  - (ii) tobacco products within the meaning of the Tobacco Control Act;
  - (iii) intoxicating liquor within the meaning of the Intoxicating Liquor Act; and
  - (iv) kava or the plant of *piper methysticum* whether prepared or in its fresh form;

“**consume**” means causing or allowing a substance, or fumes given off by the substance, to enter the person’s body in any way; and

“**supply**” includes distribute, give or sell.

### **3 Offence to inhale or consume intoxicating substances**

Any person who knowingly without lawful excuse, the proof of which shall lie on him inhales or consumes any intoxicating substance for the purpose of causing intoxication, euphoria, exhilaration, distort or any other mind-altering effect commits an offence and shall be liable upon conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or both.

### **4 Supply of intoxicating substance to a person under the age of 18 years**

Any person who knowingly without lawful or reasonable excuse, the proof of which shall lie on him, supplies or offer to supply any intoxicating substance to a person under the age of 18 years commits an offence and shall be liable upon conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 1 year or both.

### **5 Supply of intoxicating substances for inhalation**

Any person who knowingly without lawful excuse, supplies or offer to supply any intoxicating substance to another person whom he knows, or has reasonable cause to believe, that the intoxicating substance is likely to be inhaled or consumed in contravention of section 3 by the person to whom the substance is supplied or by another person, commits an offence and shall be liable upon conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 1 year or both.

### **6 Power to seize intoxicating substance from a person**

- (1) A police officer may seize any intoxicating substance from a person if –
- (a) the person knowingly without lawful excuse had inhaled or consumed or is inhaling or consuming the intoxicating substance; or

- (b) the police officer reasonably suspects the person is likely to knowingly without lawful excuse inhale or consume the intoxicating substance if the intoxicating substance is not seized.
- (2) Notwithstanding subsection (1), an intoxicating substance may be seized even if the person is not intoxicated.
- (3) A police officer shall dispose of any intoxicating substance seized under subsection (1) in a safe and appropriate manner –
  - (a) within 1 month after the final determination of proceedings for an offence or offences relating to the intoxicating substance seized; or
  - (b) within 1 month after the police officer determines that it is no longer required for use as evidence.

## 7 Regulations

The Minister may, with the consent of Cabinet make regulations for the proper and efficient administration of this Act, including regulations which provide for or in relation to –

- (a) regulating the storage and labeling of intoxicating substances;
- (b) prescribing offences and impose penalties being fines not exceeding \$10,000 or imprisonment for a period not exceeding 3 years;
- (c) prescribing the procedures, testing devices and facilities to test and detect the presence of intoxicating substances in a person's body; and
- (d) such other matters as are necessary for giving full effect to the provisions of this Act.

Passed by the Legislative Assembly this **26<sup>th</sup>** day of **August** 2021.