



# SUMMARY

## OF THE REVIEW OF NCD RELATED LEGISLATIONS IN TONGA 2024



### BACKGROUND

In 2024 and through support from the Australia Government's Department of Foreign Affairs and Trade (DFAT), the Tonga Health Promotion Foundation commissioned a review to assess Tonga's NCD related legislative framework, identify any gaps and propose recommendations to have Tonga's legal framework aligned with the Pacific Legislative Framework ("PLF") as endorsed by the Pacific Ministers of Health in 2021.

Both pieces of work were enabled through DFAT's Tonga Health System Support Programme Phase 4 (THSSP4) and Tonga Australia Support Platform (TASP).



### REVIEW PROCESS

The review process included a combination of stakeholder consultations to pinpoint related NCD laws and legislations, identify gaps as well as validating the key findings and recommendations.

This flyer that was developed by the Pacific Community's (SPC) Public Health Division, summarises the FINAL REPORT Review of NCD - Related Legislation in Tonga 2024.



#### Alcohol



#### Healthy Food & Beverages



#### Breast-milk Substitutes



#### NCD Tax Measures



### Laws Related to Alcohol

#### LEGISLATION REVIEWED

- **Intoxicating Liquor Act** - regulates sale and consumption.
- **Manufacture of Intoxicating Liquor Act** - governs manufacturing and licence to produce.
- **Traffic Act** - penalises alcohol-related driving offences.

#### GAP ANALYSIS

- **Advertising:** There are no regulations or prohibitions on alcohol advertising or sponsorships.
- **Labelling:** Current laws do not mandate alcohol content labels, health warnings, allergen information, or "standard drink" units.
- **Licensing Authority:** The Intoxicating Liquor Act lacks provisions for gender diversity, terms of appointment, or conflict-of-interest disqualifications for members.
- **Youth Protection:** The term "young person" is not defined, and there is no clear legal defence for licensees who check fraudulent identification in good faith.
- **Drink Driving:** The Traffic Act provides for breath testing but lacks provisions for blood alcohol testing, which is currently resource-constrained.
- **Case Law:** Breath screening test (limit 250mg per liter), enforcement bribery and incorrect calibration.

- **MANA Dashboard rating:** Tonga is currently green with three stars. ★★★★★ This means the country has alcohol licensing; Green with two stars ★★★★★ mean traffic law covers maximum breath alcohol equivalent and zero alcohol level for young drivers (18 and above); **Amber** means there is no alcohol advertising regulations.

#### AREAS FOR IMPROVEMENT:

- Legislative strengthening (advertising, labelling, licensing Authority governance and protection of youths).
- Strengthening government commitment through workplace alcohol policies.
- Capacity building for enforcement officers.

#### LEGISLATIVE RECOMMENDATIONS:

- Adopt and contextualise draft provisions from the **Pacific Legislative Framework (PLF)** to amend the Intoxicating Liquor Act and Traffic Act rather than creating new regulations.
- Amendments to focus on parts relating to the licensing authority, advertising, labelling, and protection of young persons.



# Laws Related to Healthy Food and Beverages Environment

## LEGISLATION REVIEWED

- **Food Act 2020.**
- **Draft Food Regulation 2024.**
- **Consumer Protection Act** – to safeguard the rights and interests of consumers from unfair trade practices, unsafe products and exploitation.
- **Consumer Protection (product safety and labelling standards) regulations 2006** – establishes standards for ensuring safe and proper labelling of products sold in Tonga.
- **Public Health Act (PHA)**, along with Public Health regulations on:
  - **Meat 1967.**
  - **Bakeries and Bread vendors 1940.**
  - **Restaurants and Food stores 1940.**

## GAP ANALYSIS

- **Marketing to Children:** There are no laws specifically regulating the marketing of unhealthy foods and sugar-sweetened beverages (SSBs) to children.
- **Nutrient Standards:** Tonga currently lacks regulations mandating maximum levels for salt, sugar, and trans fats in food products.
- **Enforcement Confusion:** There is role confusion and overlapping responsibilities between various ministries (Health, Agriculture, Police, Trade).
- **Testing Infrastructure:** The country lacks facilities to accurately test food products against safety and nutrient standards.

- **MANA Dashboard Rating:**
  1. Tonga is currently rated **amber**, indicating that legislation and policies around marketing restriction of unhealthy food and SSBs to Children are still under development, and;
  2. Tonga is currently rated **Green** ★ which indicates a reduction of salt and trans-fat. There are policies in the NCD strategy but need to include regulations on mandatory slats and trans-fat.

## AREAS FOR IMPROVEMENT

### Legislative strengthening:

- Food Regulation to include marketing restrictions of unhealthy food and SSBs to Children and reduction of salt, sugar and transfat contents in food products.
- Establishing evidence-based nutrient thresholds.
- MOH in collaboration with Ministry of Agriculture to develop regulatory frameworks to regulate the salt, sugar and trans-fat content of food.

### Strengthening government commitment:

- Encourage healthy eating in workplaces.

### Capacity building/strengthening and partnership:

- Consider investing in a testing facility with capacity building for relevant stakeholders to gain specialised skills and expertise or establish a partnership with regional testing facilities.

## LEGISLATIVE RECOMMENDATIONS

- Adopt and contextualise the PLF draft provisions for Food (Marketing of Unhealthy Food and SSBs to Children) Regulations and Food (Salt, Sugar, and Trans-fat) Regulations into the Food Regulations.



# Laws Related to the Marketing of Breast milk Substitutes

## LEGISLATION REVIEWED

- **Price Control and Wages Act 1947:** This Act allows the Competent Authority to set maximum prices for regulated goods, which includes all types of milk and baby formula.
- **Tonga National Strategy for the Prevention and Control of NCDs 2021-2025:** Output 3.3 of this strategy advocates for the government to adopt the International Code of Marketing of Breastmilk Substitutes.
- **International Code of Marketing of Breastmilk Substitutes:** This WHO-adopted Code provides guidelines to protect breastfeeding from commercial influences and ensure mothers receive unbiased information.

## GAP ANALYSIS

- **Absence of Specific Laws:** Tonga currently has **no laws regulating the marketing, labelling, advertisement, or promotion** of breastmilk substitutes or related products like feeding bottles and pacifiers.
- **Public and Workplace Breastfeeding:** There are no laws specifically permitting or prohibiting breastfeeding in public spaces or the workplace.
- **Cultural and Practical Barriers:** Although theoretically mothers may be given time to breastfeed, it is **not standard practice or encouraged** in the workplace due to cultural sensitivities.
- **Insufficient Labelling Standards:** While general labelling standards exist under the Consumer Protection Act and Codex, they **lack specific provisions** for breastmilk substitutes to prevent misleading advertising.

- **MANA Dashboard Rating:** Tonga is currently rated **amber**, indicating that policies in this area are still under development.

## AREAS FOR IMPROVEMENT

- **Legislative Integration:** Integrate the International Code of Marketing of Breast milk Substitutes into the Food Regulations to effectively monitor marketing, promotion, sales and distribution of breast milk substitutes.
- **Workplace Policies:** Advocate for **flexible maternity leave and breastfeeding-friendly workplaces**, including designated lactation rooms.
- **Education and Awareness:** Introduce breastfeeding education into school curricula and launch community programs to highlight the benefits of breastfeeding and the risks of substitutes.
- **Professional Training:** Provide ongoing training for **healthcare workers** (doctors, nurses, and midwives) so they can offer evidence-based advice to mothers.
- **Private Sector Incentives:** Offer incentives, such as **tax breaks or recognition programs**, to businesses that adopt breastfeeding-friendly practices.

## LEGISLATIVE RECOMMENDATIONS:

- **Adopt PLF Provisions:** Use the draft legislative provisions for the **Food (Breastfeeding Promotion and Protection) Regulations** of the Pacific Legislative Framework (PLF) as the foundation for drafting into the Food Regulations.
- **Follow the Formal Drafting Process as per Tonga Legislative Drafting Manual**



# Laws Related to NCD Tax Measures

## LEGISLATION REVIEWED: THIS AREA IS GOVERNED BY THE:

- **Excise Tax Act 2007** (and its various amendment orders).
- **Consumption Tax Act 2003.**
- **Customs Tariff Schedule.**

## GAP ANALYSIS:

- **General Alignment:** Existing taxes on alcohol and sweetened beverages largely align with PLF objectives.
- **Technical Implementation:** The main challenge is the lack of infrastructure to measure salt and trans-fat content, which hinders the ability to implement specific taxes on those ingredients.

## AREAS FOR IMPROVEMENT:

- **Redirecting tax revenues** from harmful products to fund public health initiatives.
- NCD Tax regimes should be **regularly reviewed by experts** to ensure they suit Tonga's context of NCD tax measures.

## LEGISLATIVE RECOMMENDATIONS:

There are **no specific new legislative recommendations**, but the focus is on the regular review of NCD tax revenue measures and the redirection of revenue collected from NCD taxes to health programs.

