



AUSTRALIAN CAPITAL TERRITORY

Liquor (Amendment) Act 1993

No. 28 of 1993

An Act to amend the *Liquor Act 1975*

[Notified in ACT Gazette S83: 21 May 1993]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Liquor (Amendment) Act 1993*.

Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Principal Act

3. In this Act, “Principal Act” means the *Liquor Act 1975*.¹

Interpretation

4. Section 4 of the Principal Act is amended by inserting in subsection (1) the following definitions:

- “ ‘Building Code’ has the same meaning as in the *Building Act 1972*;
- ‘Fire Commissioner’ means the Fire Commissioner appointed under the *Fire Brigade (Administration) Act 1974*;
- ‘occupancy loading’, in relation to a public area within premises, is the maximum number of persons that area can accommodate without involving a contravention of Part D1.6 or Part D1.13 of the Building Code;
- ‘public area’, in relation to premises, is any area within those premises that is determined under section 24A to be a public area;”.

Powers of entry

5. Section 17 of the Principal Act is amended—

- (a) by omitting from paragraph (4) (b) “and”; and
 - (b) by adding at the end of subsection (4) the following paragraphs:
 - “; (d) take reasonable measures to count the persons in a public area within the premises;
 - (e) if the inspector believes on reasonable grounds that the number of persons in a public area within the premises exceeds the occupancy loading for that public area—direct the licensee to require persons to leave that public area; and
 - (f) if—
 - (i) the licensee fails to comply with a direction under paragraph (e); or
 - (ii) persons remain in the public area of the premises after being required by the licensee to leave that area;
- with such force and assistance as is necessary and reasonable, remove persons from that public area”.

Insertion

6. After section 24 of the Principal Act the following sections are inserted in Part III:

Public areas

“24A. (1) The relevant decision maker shall, by notice in writing, determine in respect of premises—

- (a) in respect of which a General, Club, On or Special licence is in force; or
- (b) in respect of which an application for a General, Club, On or Special licence has been made;

which parts of those premises are public areas for the purposes of this Act.

“(2) Where the relevant decision maker has made a determination under subsection (1), the Registrar shall, in writing, notify the Fire Commissioner of that determination.

Occupancy loadings

“24B. (1) The Fire Commissioner shall, on receiving notice of the determination of the relevant decision maker under subsection 24A (1), assess the occupancy loading of each relevant public area and shall, in writing, notify the Registrar of that assessment.

“(2) On receiving the Fire Commissioner’s assessment under subsection (1), the Registrar shall, by notice in writing, determine the occupancy loading for each relevant public area in conformity with that assessment.

Display of signs

“24C. Where the Registrar has made a determination under subsection 24B (2) in relation to a public area within premises, the licensee shall, once a licence is in force in respect of those premises, display at each entrance to the public area a sign, approved by the Registrar, stating the occupancy loading for the public area.”.

Manner of making complaint

7. Section 44 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “or”; and

- (b) by adding at the end of subsection (1) the following word and paragraph:

“; or (c) without limiting the generality of paragraphs (a) and (b), any loss of amenity in the vicinity of the licensed premises arising from a matter referred to in either of those paragraphs”.

Consideration of complaints by Registrar

8. Section 45 of the Principal Act is amended by adding at the end the following subsections:

“(2) Where a complaint is made under paragraph 44 (1) (c), the Registrar may convene a meeting between the complainant and the licensee for the purpose of attempting to settle the matter.

“(3) If, at or after a meeting convened under subsection (2), the complainant and the licensee agree on how to resolve the matter the subject of the complaint, the Registrar may give to the licensee directions for the implementation of the resolution and for the purposes of this Act any such directions shall have effect as if they had been given by the Board under section 46.”.

Directions to licensees

9. Section 46 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (d) “or”;
- (b) by inserting after paragraph (1) (e) the following word and paragraph:
- “; or (f) a loss of amenity in the vicinity of licensed premises arises from a matter referred to in paragraph 44 (1) (a) or (b)” and
- (c) by omitting from subsection (1) “, by order,”.

Consideration of application

10. Section 63 of the Principal Act is amended by adding at the end the following subsection:

“(3) Notwithstanding subsection 14 (3), the Registrar may direct the Deputy Registrar to perform the functions of the Registrar under this Division in relation to applications, and in relation to those applications—

- (a) a reference in this Division to the Registrar shall be read as a reference to the Deputy Registrar; and
- (b) a reference in this Division to the Deputy Registrar shall be read as a reference to an Inspector.”.

Insertion

11. After section 93 of the Principal Act the following sections are inserted in Part X:

Exceeding occupancy loading

“93A. A licensee shall not, without reasonable excuse, permit a number of persons in excess of the relevant occupancy loading to be in a public area within the licensed premises.

Penalty: \$5,000.

Failing to display occupancy loading signs

“93B. A licensee shall not, without reasonable excuse, fail to display a sign in accordance with section 24C.

Penalty: \$1,000.

Failing to require patrons to leave

“93C. A licensee shall not, without reasonable excuse, fail to comply with a direction under paragraph 17 (4) (e) to require patrons to leave a public area within the licensed premises.

Penalty: \$5,000.”.

Review by Tribunal

12. Section 104 of the Principal Act is amended by inserting before paragraph (a) the following paragraphs:

“(aa) determining a public area under section 24A;

(ab) determining an occupancy loading under section 24B;”.

Notification of decisions

13. Section 104A of the Principal Act is amended by inserting in paragraph (1) (a) “(aa), (ab),” after “104”.

Repeal and substitution

14. Section 105 of the Principal Act is repealed and the following section substituted:

Institution of proceedings for offences

“105. Proceedings in respect of an offence against this Act shall not be instituted except by the Registrar or a police officer.”.

NOTE

1. Reprinted as at 30 September 1991. See also Acts Nos. 76, 82 and 111, 1991; Nos. 1 and 18, 1993.

[Presentation speech made in Assembly on 1 April 1993]

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