

1990
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Liquor (Amendment) Bill 1990

No. of 1990

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1990
THE LEGISLATIVE ASSEMBLY
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(As presented)

(Attorney-General)

Liquor (Amendment) Bill 1990

A BILL

FOR

An Act to amend the *Liquor Act 1975*

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

Short title

- 5 1. This Act may be cited as the *Liquor (Amendment) Act 1990*.

Commencement

- 10 2. (1) Section 1 and this section 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—

(a) by omitting from subsection (1) the definitions of "bar-room" and "University" and substituting respectively the following definitions: 5

 " 'bar-room' means—

 (a) in relation to an application for a licence, or for the alteration of licensed premises—a room specified in the application as a room proposed to be used as a bar-room; or 10

 (b) in relation to a licence—a room specified in the licence as a bar-room;

 'University' means— 15

 (a) the Australian National University; or

 (b) the University of Canberra"; and

(b) by inserting in subsection (1) the following definitions:

 " 'defined influential person', in relation to a body corporate, means— 20

 (a) a director or secretary of the body; or

 (b) a person who is—

 (i) substantially concerned in the management of the body; or

 (ii) able to control, or to substantially influence, the body's activities or internal affairs; 25

 'defined offence' means an offence against this Act, the *Crimes Act 1914* of the Commonwealth, the *Police Offences Act 1930*, the *Unlawful Games Act 1984* or the Crimes Act, 1900 of the State of New South Wales in its application in the Territory; 30

 'direction' means a direction of the Authority under Division 3 of Part V;

 'director' in relation to a body incorporated for a public purpose by a law of the Territory, of the Commonwealth, of another Territory, or of a State, includes a member of the body; 35

 'duty-free sale' means sale in relation to which a Collector within the meaning of the *Customs Act 1901* of the Commonwealth gives permission in accordance with subsection 96A (2) of that Act; 40

'exempt wholesale liquor sale', in relation to the sale of liquor by the holder of an Off Licence, means the sale of liquor by wholesale by the licensee in pursuance of the licence to—

- (a) a licensee;
- (b) a person who, under the law of a State or another Territory, is authorised to sell liquor;
- (c) a permit holder;
- (d) a person for the purpose of the duty-free sale of the liquor by that person;
- (e) a University;
- (f) the Canberra Theatre Trust; or
- (g) an exempt person;

'hearing' means a hearing in accordance with Part XII;

'offence against this Act' includes—

- (a) an offence against the repealed Act; and
- (b) an offence against Part VIII of the Crimes Act, 1900 of the State of New South Wales in its application in the Territory, in relation to an offence against this Act or the repealed Act;".

Application

5. Section 5 of the Principal Act is amended—

- (a) by omitting from subsection (1) "The" and substituting "Subject to this section, the";
- (b) by inserting before paragraph (1) (a) the following paragraph:
" (aa) the duty-free sale of liquor;";
- (c) by omitting from paragraph (1) (c) "Australian Services Canteens Organization" (wherever occurring) and substituting "Army and Air Force Canteen Service";
- (d) by omitting from paragraph (1) (e) "or";
- (e) by adding at the end of subsection (1) the following word and paragraph:
"; or (g) the sale of liquor in an exempt University building";
- (f) by omitting subsection (2);
- (g) by omitting from subsection (3) all the words after "building" (first occurring) and substituting—
"in contravention of a Statute of that University.
Penalty: \$1,000.";
- (h) by omitting from subsection (4) "the University" and substituting "each University";
- (i) by omitting subsection (4A);
- (j) by omitting from subsection (6) "or purchase liquor or have

liquor in his possession,” and substituting “, purchase or possess liquor”;

(k) by inserting at the foot of subsection (6) the following penalty:
“Penalty: \$1,000.”;

(m) by omitting subsection (7A);

(n) by omitting from subsection (8) the definitions of “exempt College building” and “Statute”; and

(o) by omitting from subsection (8) the definition of “exempt University building” and substituting the following definition:

“‘exempt University building’ means a building which is occupied by—

(a) a University; or

(b) a residential college affiliated with a University under a Statute of that University;

in which the sale of liquor is authorised by a Statute of that University.”.

Inspectors’ powers of entry.

6. Section 17 of the Principal Act is amended—

(a) by omitting from subsection (7) “him” and substituting “the analyst”;

(b) by omitting from subsection (9) “that he has”; and

(c) by omitting from subsection (10) “member of the Police Force of the Territory as if the member” and substituting “police officer as if the officer”.

Insertion

7. After section 17 of the Principal Act the following section is inserted:

Production of licences and permits

“17AA. (1) An inspector or police officer may, while lawfully on licensed premises or premises specified in a permit, demand that the licensee or permit holder, as the case requires, produce the licence or permit.

“(2) A licensee or permit holder shall not, without reasonable excuse, fail to comply with a demand made under subsection (1).

Penalty for contravention of subsection (2): \$1,000.”.

Persons under 18—powers of inspectors and police officers

8. Section 17B of the Principal Act is amended by inserting after subsection (2) the following subsection:

“(2A) A person shall not, without reasonable excuse, contravene a requirement made of him or her in accordance with paragraph (1) (c) or (2) (c).

Penalty: \$500.”.

Cautioning young persons

9. Section 17C of the Principal Act is amended by omitting from subsection (3) "section 84" and substituting "subsection 17B (2A)".

Substitution

- 5 10. Section 25 of the Principal Act is repealed and the following section substituted:

Classes of licence

"25. The Authority may authorise the issue of licences of the following classes:

- 10 (a) General Licences;
 (b) On Licences;
 (c) Off Licences;
 (d) Club Licences;
 (e) Special Licences."

15 **General Licences**

11. Section 26 of the Principal Act is amended—

- (a) by omitting "Subject to this Act, a" and substituting "A";
 (b) by inserting "on the licensed premises" after "liquor"; and
 (c) by omitting "the licensed" and substituting "those".

20 **On Licences**

12. Section 27 of the Principal Act is amended—

- (a) by omitting "Subject to this Act, an" and substituting "An";
 (b) by inserting "on the licensed premises" after "liquor"; and
 (c) by omitting "the licensed" and substituting "those".

25 **Off Licences**

13. Section 28 of the Principal Act is amended—

- (a) by omitting "Subject to this Act, an" and substituting "An";
 (b) by inserting "on the licensed premises" after "liquor"; and
 (c) by omitting "the licensed" and substituting "those".

30 **Club Licences**

14. Section 29 of the Principal Act is amended by omitting "Subject to this Act, a" and substituting "A".

Insertion

- 35 15. After section 29 of the Principal Act the following section is inserted in Division 1 of Part IV:

Special Licences

“29A. A Special Licence authorises the sale of liquor—
 (a) between such times;
 (b) on such premises and in such places; and
 (c) subject to such other conditions;
 as are specified in the licence.”.

5

Repeal

16. Section 31 of the Principal Act is repealed.

Substitution

17. Section 33 of the Principal Act is repealed and the following sections are substituted: 10

Class of licences

“33. Where the Authority decides to authorise the issue of a licence to an applicant, it shall authorise the issue of a licence of the class applied for, unless it considers, on reasonable grounds, that a licence of a different class should be issued. 15

Issue of licences—relevant considerations

“33A. (1) The Authority shall not authorise the issue of a licence to an applicant if it is satisfied on reasonable grounds that—

- (a) the applicant is not a fit and proper person to hold a licence; 20
- (b) the premises in respect of which the licence is sought are not fit and proper premises for the purpose of the licence; or
- (c) the conditions of the Crown lease over those premises are not appropriate conditions for the purpose of the licence.

“(2) The matters which the Authority shall consider in deciding whether to authorise the issue of a licence include the following: 25

- (a) the applicant’s age;
- (b) the applicant’s understanding of the obligations of a licensee under this Act;
- (c) whether the applicant has been convicted of a defined offence; 30
- (d) whether the applicant has contravened a provision of this Act, or a direction;
- (e) whether the applicant is an undischarged bankrupt;
- (f) if the applicant is a body corporate—
 - (i) whether the body is in liquidation; or 35
 - (ii) whether, in consideration of the matters referred to in paragraphs (a) to (e) (inclusive) or otherwise, any defined influential person in relation to the body would not be a fit and proper person to hold a licence;

- (g) the provisions of the Manual as they relate to the premises in relation to which the licence is sought, and to any proposed alterations to those premises.

5 “(3) Where the Authority has reasonable grounds for believing that
an applicant intends to hold the licence for the purposes of a partnership,
a reference in subsection (1) or (2) to the applicant is to be read as
including a reference to each of the partners who the Authority has
reasonable grounds for believing intends to be concerned in, or to take
10 part in, the management of the partnership’s business in relation to the
licence, whether or not the partner’s name appears on the application.”.

Insertion

18. After section 34 of the Principal Act the following section is inserted:

Issue of Special Licences

15 “34A. (1) Where the Authority authorises the issue of a Special
Licence, the licence shall be issued subject to such conditions as the
Authority considers to be in the public interest.”.

 “(2) A Special Licence shall specify the conditions subject to which
it is issued.”.

20 **Issue of licences**

19. Section 36 of the Principal Act is amended—

- (a) by omitting subsection (1) and substituting the following subsection:

25 “(1) Subject to this Part, where the Authority has authorised
the issue of a licence, the Registrar shall issue the licence—

(a) on payment of the determined fee; or

30 (b) if the applicant is a licensee who has also applied under
section 42B for the conditional surrender of a licence—
on payment of the amount (if any) by which the
determined fee for the issue of a licence of the class to
be issued exceeds the determined fee for the issue of a
licence of the class of the licence to be surrendered.”;
and

35 (b) by omitting subsection (3) and substituting the following
subsection:

 “(3) The Registrar shall endorse on a licence any particulars
in relation to the applicant accompanying the application, or
given to the Registrar, under Division 7 or 8.”.

Renewal

40 20. Section 38 of the Principal Act is amended by omitting
subsection (1) and substituting the following subsection:

 “(1) On receiving an application, in the prescribed form, for the
renewal of a licence, the Registrar shall renew the licence in the
prescribed form.”.

Substitution

21. Sections 39 and 40 and Division 4 of the Principal Act are repealed and the following sections and Divisions substituted:

Duration of renewal

"39. Where the Registrar renews a licence, it continues in force, 5
subject to this Act, for a period of 12 months commencing on the day
immediately following the day on which, but for its renewal, the licence
would have expired.

Renewal fees—first instalment

"40. (1) An amount equal to half (in this section called 'the first 10
instalment') of the determined fee for the renewal of a licence is due
and payable to the Territory by the licensee on the day immediately
preceding the first day of the period for which the licence is renewed.

"(2) Where—

(a) a licence is renewed; and 15

(b) the first instalment of the determined fee is not paid before the
first day of the period for which the licence is renewed;

an additional amount equal to 10% of the determined fee is due and
payable to the Territory by the licensee at the expiration of the first 20
30 days of the period for which the licence is renewed.

"(3) Where—

(a) subsection (2) applies in relation to a licence; and

(b) the first instalment of the determined fee, together with the 25
additional amount payable under that subsection, is not paid
on or before the expiration of the first 30 days of the period
for which the licence is renewed;

the licence ceases to be in force at the expiration of that period of
30 days.

Renewal fees—balance

"40A. (1) An amount equal to half (in this section called 'the 30
balance') of the determined fee for the renewal of a licence is due and
payable to the Territory by the licensee on 1 June next following that
renewal.

"(2) Where—

(a) a licence is renewed; and 35

(b) the balance of the determined fee for the renewal of the licence
is not paid on 1 June next following that renewal;

an additional amount equal to 10% of the determined fee is due and
payable to the Territory by the licensee on or before 30 June next 40
following that renewal.

“(3) Where—

- (a) subsection (2) applies in relation to a licence; and
- (b) the balance of the determined fee for the renewal of the licence, together with the additional amount payable under subsection (2), is not paid on or before 30 June next following the relevant renewal;

the licence ceases to be in force on 1 July next following that renewal.

Effect of lapse of licence for failure to pay renewal fees

“40B. Where a licence ceases to be in force under subsection 40 (3) or 40A (3), the Authority shall not authorise the transfer of a licence to the former licensee, and the Registrar shall not renew another licence held by that person, unless—

- (a) all amounts payable under section 40 or 40A (as the case requires) have been paid; or
- (b) that person has made arrangements to the satisfaction of the Authority for the payment (whether by instalments or otherwise) of the unpaid amount or amounts.

“Division 4—Transfer of licences

Transfer

“41. (1) Upon application in the prescribed form, the Authority may authorise the transfer of a licence.

“(2) The transfer of a licence takes effect from the date the Authority authorises the transfer, or from such later date as is fixed by the Authority.

“(3) Where—

- (a) the Authority authorises the transfer of a licence; and
- (b) the licensee lodges with the Registrar the licence and the records kept under section 76A;

the Registrar shall amend it accordingly, endorse on it a memorandum in the prescribed form, and give it to the new licensee, together with those records, as soon as practicable after the date of effect of the transfer.

Relevant considerations

“42. (1) The Authority shall not authorise the transfer of a licence if it is satisfied on reasonable grounds that—

- (a) the proposed transferee is not a fit and proper person to hold a licence; or
- (b) if the licensee or, if the licensee is a body corporate, the body or a defined influential person in relation to the body, has been charged with a defined offence in respect of which proceedings are not completed—

- (i) the proposed transferee is a body corporate, or a defined influential person in relation to a body corporate, in relation to which the licensee is a defined influential person;
- (ii) the licensee is a body corporate in relation to which the proposed transferee is a defined influential person; 5
- (iii) if the licensee and the proposed transferee are partners—the proposed transferee intends to hold the licence for the purposes of the partnership; or
- (iv) if the licensee and the proposed transferee are bodies corporate—there is a defined influential person in common between the 2 bodies. 10

“(2) The matters which the Authority shall consider in deciding whether to refuse to authorise the transfer of a licence under paragraph (1) (a) include the following: 15

- (a) the proposed transferee’s age;
- (b) the proposed transferee’s understanding of the obligations of a licensee under this Act;
- (c) whether the proposed transferee has been convicted of a defined offence; 20
- (d) whether the proposed transferee has contravened a provision of this Act, or a direction;
- (e) whether the proposed transferee is an undischarged bankrupt;
- (f) if the proposed transferee is a body corporate—
 - (i) whether the body is in liquidation; or 25
 - (ii) whether, in consideration of the matters referred to in paragraphs (a) to (e) (inclusive) or otherwise, any defined influential person in relation to the body would not be a fit and proper person to hold a licence.

“(3) Where a licence is held for the purposes of a partnership, a reference in this section to the licensee is to be read as including a reference to each of the partners who is concerned in, or takes part in, the management of the partnership’s business in relation to the licence— 30

- (a) whether or not the partner’s name appears on the licence; and
- (b) whether or not subsection 43B (1), (2), (3) or (4), as the case requires, has been complied with in relation to the partner. 35

“(4) Where the Authority has reasonable grounds for believing that a proposed transferee intends to hold the licence for the purposes of a partnership, a reference in this section to the proposed transferee is to be read as including a reference to each of the partners who, the Authority has reasonable grounds for believing, intends to be concerned in, or to take part in, the management of the partnership’s business in relation to the licence, whether or not the partner’s name appears on the application. 40

“Division 5—Surrender of licences

Interpretation

“42A. In this Division—

5 ‘conditional surrender’, in relation to a licence, means the surrender
of the licence on the condition that a licence of a different class
is issued.

Application

“42B. (1) A licensee may apply to the Authority for the surrender,
or the conditional surrender, of the licence.

10 “(2) An application shall be in writing, accompanied by—

(a) any portion of the determined fee for the most recent renewal
of the licence which is payable under subsection 40 (1), or
which is or will be payable under subsection 40A (1);

15 (b) any additional amount which is payable under subsection 40 (2)
or 40A (2); and

(c) the determined fee for the surrender of the licence.

Cancellation on surrender

20 “42C. (1) On application in accordance with section 42B, the
Authority shall cancel the licence by written notice to the applicant
if—

(a) no amount remains payable under this Act by the applicant;

(b) the Authority is satisfied that, where necessary, appropriate
arrangements have been made by the applicant for the disposal
of liquor held by the applicant in pursuance of the licence; and

25 (c) in the case of an application for conditional surrender—the
Authority has authorised the issue to the applicant of a licence
of a different class.

““(2) The cancellation of a licence under this section takes effect—

30 (a) in the case of the conditional surrender of a licence—on the
date the licence referred to in paragraph (1) (c) is issued; or

(b) in any other case—14 days after the date of the application.

“Division 6—Licence termination

Termination fees

35 “42D. (1) Where a licence ceases to be in force, except by virtue
of its cancellation under section 42C, or its suspension, the former
licensee shall pay to the Territory the determined fee.

40 “(2) Where a former licensee pays an amount under subsection (1)
following the cancellation of the licence, and the cancellation is set
aside after the payment, the Territory shall refund that amount to that
person.

Failure to pay termination fees

"42E. (1) Where an amount due under section 42D by a person is not paid in full, the Registrar shall not issue or transfer a licence to that person, or renew another licence held by that person, except with the approval of the Authority.

5

"(2) The Authority shall not grant approval for the purpose of subsection (1) unless the person from whom the amount is due has made arrangements to the satisfaction of the Authority for the payment (whether by instalments or otherwise) of the whole of the amount.

"(3) Where an amount due under section 42D by 2 or more persons is not paid in full, the Registrar shall not issue or transfer a licence to any of those persons, or renew another licence held by any of those persons, except with the approval of the Authority.

10

"(4) The Authority shall not grant approval for the purpose of subsection (3) unless the person seeking leave has made arrangements to the satisfaction of the Authority for the payment (whether by instalments or otherwise) of—

15

(a) the whole of the amount; or

(b) if, in the opinion of the Authority based on reasonable grounds, it would be unfair to require payment of the whole of that amount—an amount calculated by reference to the formula—

20

$\frac{A}{N}$, where:

A is the amount due under section 42D;

N is the number of persons by whom the amount is due.

25

Return of licences to Registrar

"42F. Where a licence ceases to be in force, whether by the expiration of time, suspension or cancellation, the former licensee shall not, without reasonable excuse, fail to give the licence to the Registrar on the next day—

30

(a) in the case of a licence which is suspended or cancelled—after the date of effect of the suspension or cancellation; or

(b) in the case of a licence which expires—after the expiration; on which the Registrar's office is open to the public.

35

Penalty: \$2,000.

Certificates of liquor transactions

"43. (1) Where a licence ceases to be in force otherwise than by virtue of its suspension, within 14 days of that cessation the former licensee shall not, without reasonable excuse, fail to give the Registrar—

40

(a) in the case of an Off Licence—certificates in the prescribed form; or

(b) in any other case—a certificate in the prescribed form;

in relation to liquor transactions undertaken in pursuance of the licence during the defined period.

Penalty: \$2,000.

5 “(2) In subsection (1)—
‘defined period’ means—

(a) in relation to a licence which ceases to be in force after 1 July 1991—the period commencing on the 1 July previous to that cessation and ending on the expiration of the date of that cessation; or

10 (b) in relation to a licence which ceases to be in force on or before 30 June 1991, the period—

(i) commencing on the date the licence was last renewed or, if the licence has not been renewed, on the date the licence was issued; and

15 (ii) ending on the expiration of the date of that cessation.”.

Division renumbering

22. Division 5 of Part IV of the Principal Act is renumbered as Division 7.

Notice of partnership

23. Section 43B of the Principal Act is amended—

(a) by omitting from subsection (4) “, (3) or (4)” and substituting “or (3)”;

25 (b) by inserting in subsection (6) “, without reasonable excuse,” after “who”; and

(c) by omitting from subsection (6) all the words after “punishable”, and substituting “on conviction, by a fine not exceeding \$2,000”.

Repeal

24. Section 43D of the Principal Act is repealed.

Insertion

25. After section 43E of the Principal Act the following Division is inserted in Part IV:

“Division 8—Licences held by corporations

Information about influential persons

35 “43F. (1) Where a body corporate applies for a licence, the body shall attach to the application written particulars of the name, residential address and relationship to the body of each defined influential person in relation to the body.

“(2) Where a body corporate holds a licence issued before the date of commencement of section 25 of the *Liquor (Amendment) Act 1990*, the body shall, within 1 month after that commencement—

- (a) give the Registrar written notice of the name, residential address and relationship to the body of each defined influential person in relation to the body; and 5
- (b) lodge the licence with the Registrar.

“(3) Where a licence is lodged with the Registrar under subsection (2), the Registrar shall endorse it with the information in the notice and return it to the licensee. 10

“(4) A body corporate which, without reasonable excuse, contravenes subsection (1) or (2), is guilty of an offence punishable on conviction by a fine not exceeding \$10,000.

Changes in influential personnel

“43G. (1) Within 28 days after a person becomes a defined influential person in relation to a body corporate which holds, or which has applied for, a licence, the body shall— 15

- (a) give the Registrar written notice of the person’s name, residential address and relationship to the body; and
- (b) if the body is a licensee—lodge the licence with the Registrar. 20

“(2) Within 28 days after a substantial change in the relationship of a defined influential person to a body corporate which holds, or which has applied for, a licence, the body shall—

- (a) give the Registrar written notice specifying that change; and
- (b) if the body is a licensee—lodge the licence with the Registrar. 25

“(3) Within 28 days after a person ceases to be a defined influential person in relation to a body corporate which holds, or which has applied for, a licence, the body shall—

- (a) give the Registrar written notice specifying the person’s former relationship with the corporation; and 30
- (b) if the body is a licensee—lodge the licence with the Registrar.

“(4) Where a licence is lodged with the Registrar under this section, the Registrar shall amend it accordingly and return it to the licensee.

“(5) Where—

- (a) a licence is applied for, or is held, for the purposes of a partnership; and 35
- (b) a body corporate is one of the partners;

this section applies to that body as if it were the sole applicant for the licence, or the sole licensee (as the case requires), whether or not the body’s name appears on the application or the licence. 40

“(6) A body corporate which, without reasonable excuse, contravenes subsection (1), (2) or (3) is guilty of an offence punishable on conviction by a fine not exceeding \$10,000.”.

Insertion

5 26. Before Division 1 of Part V of the Principal Act the following Division is inserted into that Part:

“Division 1—Preliminary

Application to partnerships

10 “43H. Where a licence is held for the purposes of a partnership, a reference in this Part to a licensee is to be read, unless the contrary intention appears, as including a reference to each of the partners who is concerned in, or takes part in, the management of the partnership’s business in relation to the licence—

- 15 (a) whether or not the partner’s name appears on the licence; and
 (b) whether or not subsection 43B (1), (2), (3) or (4), as the case requires, has been complied with in relation to the licence.”.

Substitution

27. The heading to Division 1 of Part V of the Principal Act is omitted and the following heading substituted:

20 ***“Division 2—Complaints”.***

Action on complaints

28. Section 45 of the Principal Act is amended by omitting paragraphs (3) (a) and (b) and substituting the following paragraphs:

- 25 “(a) if subsection 46 (1) applies—give directions to the licensee;
 (b) if subsection 54 (2) applies—direct the Registrar to apply for the cancellation of the licence; or”.

Substitution

29. The heading to Division 2 of Part V of the Principal Act is omitted and the following heading substituted:

30 ***“Division 3—Directions”.***

Directions to licensees

30. Section 46 of the Principal Act is amended—

- 35 (a) by inserting in subsection (1) “the Authority is satisfied on reasonable grounds that” after “Where”;
 (b) by omitting paragraph (1)(a) and substituting the following paragraph:
 “(a) a licensee has contravened a provision of this Act;”;

- (c) by omitting from paragraphs (1)(b) and (e) "his" and substituting "the";
- (d) by omitting from paragraph (1)(b) "undue";
- (e) by omitting paragraphs (1)(c) and (d) and substituting the following paragraphs:
 - "(c) a licensee has permitted the licensed premises to be used so as to cause disturbance or inconvenience to persons occupying premises in the neighbourhood;
 - (d) the licensed premises do not substantially comply with the Manual; or";
- (f) by omitting subsections (3), (4) and (5);
- (g) by omitting from subsection (7) all the words after "by reason of" and substituting "the licensee's contravention of subsection 69(1) if the Authority is satisfied that the licensee took reasonable measures to avoid the contravention"; and
- (h) by omitting subsection (8).

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Substitution

31. Divisions 3 and 4 of Part V of the Principal Act are repealed and the following Divisions and Parts substituted:

"Division 4—Suspension

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Ground for suspension

"47. The Authority shall suspend a licence if it is satisfied on reasonable grounds that—

- (a) the licensee has contravened a direction; and
- (b) it would be in the public interest to do so.

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Application by Registrar

"48. (1) Where the Registrar believes on reasonable grounds that a licensee has contravened a direction, he or she shall apply to the Authority for the suspension of the licence.

"(2) Where the Authority believes on reasonable grounds that a licensee has contravened a direction—

- (a) the Authority shall direct the Registrar to apply for the suspension of the licence; and
- (b) the Registrar shall apply for the suspension of the licence.

"(3) The Registrar shall not apply for the suspension of a licence on the ground that the licensee has contravened a direction where the Registrar applies for the cancellation of the licence on grounds including that contravention.

"(4) In an application, the Registrar shall set out—

- (a) the grounds of the application; and

40

(b) the facts relied upon to constitute those grounds.

Suspension

“49. (1) On application in accordance with section 48, the Authority shall—

- (a) if satisfied, on reasonable grounds, that the facts set out in the application would not, if proved, establish that the licensee has contravened a direction—dismiss the application; or
- (b) in any other case—conduct a hearing in relation to the application.

“(2) After conducting a hearing, the Authority shall, in writing—

- (a) suspend the licence for a specified period; or
- (b) dismiss the application.

Revocation

“50. Where, before the expiration of the period of suspension of a licence for the contravention of a direction, the licensee complies with the direction, the Authority shall, by notice in writing to the licensee, revoke the suspension.

Extension

“51. The Authority may, before the expiration of the period of suspension of a licence specified under paragraph 49 (2) (a), by notice in writing to the licensee extend that period for a further specified period.

Duration

“52. The suspension of a licence has effect until—

- (a) the suspension is revoked or set aside; or
- (b) the end of the period—
 - (i) specified under paragraph 49 (2) (a); or
 - (ii) where that period is extended under section 51—specified under that section.

“Division 5—Cancellation

Grounds for cancellation

“53. (1) For the purposes of this Division, the grounds for the cancellation of a licence are as follows:

- (a) the licensee is not a fit and proper person to hold a licence;
- (b) the licensed premises are not fit and proper premises for the purposes of the licence.

“(2) The matters to be considered in determining whether a ground for cancellation referred to in subsection (1) exists include the following:

- (a) if the licence has previously been suspended for the contravention of a direction—whether, after the expiration of

the period of suspension the licensee has again contravened that direction, or has contravened a direction to the same or similar effect;

- (b) whether the licensee has been convicted of a defined offence; 5
- (c) whether the licensee is bankrupt;
- (d) if the licensee is a body corporate—
 - (i) whether the body goes into liquidation; or
 - (ii) whether, in consideration of the matters referred to in paragraphs (b) or (c) or otherwise, any defined influential person in relation to the body would not be a fit and proper person to hold a licence; 10
- (e) the provisions of the Manual as they relate to the licensed premises.

Application by Registrar

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“54. (1) Where the Registrar believes on reasonable grounds that there is a ground for the cancellation of a licence, he or she shall apply to the Authority for the cancellation of the licence.

“(2) Where the Authority believes on reasonable grounds that there is a ground for the cancellation of a licence—

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- (a) the Authority shall direct the Registrar to apply for the cancellation of the licence; and
- (b) the Registrar shall apply for the cancellation of the licence.

“(3) In an application, the Registrar shall set out—

- (a) the grounds of the application; and 25
- (b) the facts relied upon to constitute those grounds.

Cancellation

“55. (1) On application in accordance with section 54, the Authority shall—

- (a) if satisfied, on reasonable grounds, that the facts set out in the application would not, if proved, provide any ground for the cancellation of the licence—dismiss the application; or 30
- (b) in any other case—conduct a hearing in relation to the application.

“(2) After conducting a hearing, the Authority shall, in writing—

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- (a) if satisfied, on reasonable grounds, that a ground for the cancellation of the licence exists—cancel the licence; or
- (b) in any other case—dismiss the application.

“PART VI—ALTERATION OF LICENSED PREMISES

Application for alteration

“56. (1) A licensee may apply to the Authority for permission to alter the licensed premises.

5 “(2) An application shall be—

(a) in the prescribed form and signed by the licensee;

(b) accompanied by a copy of the plans and specifications for the alteration of the premises having attached to it, or written on it, a memorandum in accordance with subsection 33 (6) of the *Building Act 1972*; and

(c) lodged with the Registrar.

“(3) The holder of a General Licence or an On Licence shall specify in the plans and specifications accompanying the application each room proposed to be used as a bar-room if the alteration is made.

15 “(4) The Registrar shall submit the application, plans and specifications to the Authority, together with a report by the Registrar stating—

(a) whether, in the Registrar’s opinion, the licensed premises would, if the proposed alteration were made, substantially comply with the Manual; and

(b) if the Registrar’s opinion is that, if the proposed alteration were made, the licensed premises would not substantially comply with the Manual—the grounds on which the opinion is based.

Approval of alterations

25 “57. (1) On application under section 56, the Authority shall consider the Registrar’s report and—

(a) approve in writing the alteration of the licensed premises; or

(b) conduct a hearing in relation to the application.

“58. (1) After conducting a hearing, the Authority shall, in writing—

(a) approve the alteration; or

(b) refuse to approve the alteration.

“59. (1) The Authority shall approve an alteration unless it is satisfied on reasonable grounds that, if the proposed alteration were made, the licensed premises would not substantially comply with the Manual.

Offences

“60. (1) A licensee shall not, except with the approval of the Authority, alter the licensed premises.

“61. (1) Where the Authority approves an alteration of licensed premises, the licensee shall not, until the Authority declares that the alteration is complete, conduct any business in relation to the licence

on the licensed premises except in accordance with arrangements approved by the Authority.

“(3) A licensee shall not, without reasonable excuse, fail to advise the Registrar of any alteration to any fitment in the licensed premises.

Penalty: \$2,000.

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“PART VII—CLOSURE OF LICENSED PREMISES

Application for closure

“59. (1) A holder of a General Licence, an On Licence or a Special Licence may apply to the Authority for the closure of the licensed premises—

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- (a) on any 1 or more days; or
- (b) for specified periods.

“(2) An application shall be—

- (a) in writing signed by the licensee; and
- (b) lodged with the Registrar—

15

- (i) not less than 21 days before the first day in respect of which approval is sought; or
- (ii) before such a later date (before that first day) as the Authority allows.

“(3) The Registrar shall submit the application to the Authority, together with a report by the Registrar stating—

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- (a) whether, in the Registrar’s opinion, the proposed closure is reasonable, having regard to the need to ensure that the reasonable requirements of the public are met; and
- (b) if the Registrar’s opinion is that the application should not be approved—the grounds on which the opinion is based.

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Approval of closure

“60. (1) On application under section 59, the Authority shall consider the Registrar’s report and—

- (a) in writing, approve the closure; or
- (b) conduct a hearing in relation to the application.

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“(2) After conducting a hearing, the Authority shall, in writing—

- (a) approve the closure; or
- (b) refuse to approve the closure.

“(3) The Authority shall not approve the closure of licensed premises unless it is satisfied on reasonable grounds that the proposed closure should be approved, having regard to the need to ensure that the reasonable requirements of the public are met.

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Offences

“60A. (1) Where the Authority approves the closure of licensed premises under section 60, the licensee shall not, without reasonable excuse, for not less than 7 days before the first day on which the closure of the premises has been approved, fail to display in the premises a notice setting out particulars of the day or days on which, and the times at which, the premises will be closed pursuant to the approval.

Penalty: \$500.

“(2) A licensee shall not open any part of the licensed premises for the sale of liquor on a day in respect of which an approval has been granted under section 60.

Penalty: \$1,000.

“PART VIII—SELLING LIQUOR ON UNLICENSED PREMISES

Authorisation

“60B. For the purposes of this Act, upon notice by a licensee to the Registrar in accordance with section 60C, the specified premises are, during the specified period, to be taken to be part of the licensed premises.

Notice

“60C. (1) For the purposes of section 60B, a licensee shall give the Registrar written notice specifying—

- (a) the period during which the licensee intends to sell liquor on unlicensed premises; and
- (b) those unlicensed premises.

“(2) The period specified in a notice shall—

- (a) commence at least 24 hours after the expiration of the period for which any previous notice has been given for the purposes of this Part; and
- (b) not exceed 6 days.

“(3) A licensee shall give notice no later than 7 days before the commencement of the specified period.”.

Substitution

32. The heading to Part VI of the Principal Act is omitted and the following Part heading and Division heading are substituted:

“PART IX—PERMITS

“Division 1—Issue of permits”.

Consideration of applications by the Authority

33. Section 64 of the Principal Act is amended—

- (a) by omitting from subsection (2) “senior member” and substituting “Authority”; and

- (b) by omitting subsections (3), (5) and (6).

Issue of permit after hearing

34. Section 65 of the Principal Act is amended—

- (a) by omitting from subsection (1) all the words from and including “Subject” to and including “unless” and substituting “After conducting a hearing in relation to an application for a permit, the Authority shall direct the Registrar to issue the permit unless the Authority is satisfied on reasonable grounds that”; 5
- (b) by omitting from paragraph (1) (b) “residing” and substituting “occupying premises”; 10
- (c) by omitting from paragraph (1) (b) “or” (last occurring);
- (d) by adding at the end of subsection (1) the following paragraphs:
 - “; (d) the applicant has been convicted of a defined offence, and it would be contrary to the public interest for the application to be granted; 15
 - (e) if the applicant is a body corporate—paragraph (d) applies to a defined influential person in relation to the body, and it would be contrary to the public interest for the application to be granted; or
 - (f) it would otherwise be contrary to the public interest 20 for the permit to be granted”; and
- (e) by adding at the end the following subsection:
 - “(5) Where the Authority has reasonable grounds for believing that an applicant intends to hold the permit for the purposes of a partnership, a reference in subsection (1) to the applicant 25 is to be read as including a reference to each of the partners the Authority has reasonable grounds for believing intends to be concerned in, or to take part in, the management of the partnership’s business in relation to which the permit is applied for, whether or not the partner’s name appears on the 30 application.”.

Repeal

35. Section 65C of the Principal Act is repealed.

Substitution

36. Sections 65E and 66 of the Principal Act are repealed and the following sections and Division substituted: 35

Refund of permit fees

“65E. Where—

- (a) for any reason other than the cancellation of the permit, a permit holder does not conduct any entertainment in respect of which the permit was issued; and 40

(b) the permit holder gives the permit to the Registrar with a signed statement to the effect that—

(i) the liquor purchased for sale in pursuance of the permit has been returned to each person from whom it was purchased; or

(ii) no liquor was purchased for sale in pursuance of the permit;

the Territory shall pay the permit holder an amount equal to the amount by which the fee paid for the issue of the permit exceeded the minimum fee determined for the purposes of section 62.

Return of permits to Registrar

“65F. Within 7 days after—

(a) the expiration of the period, or the last period, as the case requires, during which the sale of liquor is authorised by a permit; or

(b) the cancellation of a permit;

the permit holder shall not, without reasonable excuse, fail to return the permit to the Registrar.

Penalty: \$1,000.

“Division 2—Cancellation of permits

Application to partnerships

“66. Where a permit is held for the purposes of a partnership, a reference in this Division to a permit holder is to be read, unless the contrary intention appears, as including a reference to each of the partners who is concerned in, or takes part in, the management of the partnership’s business in relation to the permit, whether or not the partner’s name appears on the permit.

Ground for cancellation

“66A. (1) The Authority shall cancel a permit if it would be in the public interest to do so.

“(2) For the purposes of this Division, the matters to be considered in determining whether it would be in the public interest to cancel a permit include the following:

(a) whether the permit holder has permitted the premises or place in relation to which the permit is issued to be used so as to cause disturbance or inconvenience to persons occupying premises in the neighbourhood;

(b) whether the permit holder has contravened a provision of this Act;

(c) whether the permit holder has been convicted of a defined offence;

- (d) if the permit holder is a body corporate—whether paragraph (b) or (c) applies to a defined influential person in relation to the body.

Complaints

“66B. (1) Where a person makes a complaint in accordance with subsection (2) about the manner in which the premises specified in a permit are being used, the Registrar shall— 5

- (a) investigate the complaint; and
- (b) prepare a written report of the results of the investigation.

“(2) A complaint under subsection (1) shall be— 10

- (a) in writing and signed by the person making the complaint; and
- (b) lodged with the Registrar.

Application by Registrar

“66C. (1) Where the Registrar—

- (a) has reasonable grounds for believing that it would be in the public interest to cancel a permit; or 15
- (b) after investigating a complaint under section 66B, is satisfied that the complaint is not frivolous or unreasonable;

the Registrar shall apply to the Authority for the cancellation of the relevant permit. 20

“(2) Where the Authority has reasonable grounds for believing that it would be in the public interest to cancel a permit, the Authority shall direct the Registrar to apply for the cancellation of the permit.

“(3) In an application, the Registrar shall—

- (a) state each ground upon which the application is made; 25
- (b) state the facts relied upon to constitute that ground; and
- (c) attach any relevant report under section 66B.

Cancellation

“66D. (1) On application by the Registrar under section 66C, the Authority shall— 30

- (a) if the Authority believes on reasonable grounds that the facts set out in the application and any Registrar’s report would not, if proved, establish that it would be in the public interest to cancel a permit—in writing, dismiss the application; or
- (b) in any other case—conduct a hearing in relation to the application. 35

“(2) After conducting a hearing, the Authority shall, in writing—

- (a) if satisfied, on reasonable grounds, that it would be in the public interest to do so—cancel the permit; or
- (b) in any other case—dismiss the application.”. 40

Substitution

37. The heading to Part VII of the Principal Act is omitted and the following heading and section are substituted:

“PART X—OFFENCES

5 Interpretation

“66E. In this Part—

‘non-trading day’ means—

(a) a public holiday;

(b) a Sunday; or

10 (c) in relation to a licensee—a day in respect of which an approval under Part VII has been granted to the licensee.”.

General licence—minimum bar trading hours

38. Section 67 of the Principal Act is amended—

15 (a) by omitting subsection (1);

(b) by omitting from subsection (2) “the holder of that licence” and substituting “that licensee”;

(c) by adding at the end of subsection (2) “, unless the licensee has a reasonable excuse for closing the premises”; and

20 (d) by adding at the foot of the section the following penalty:
“Penalty: \$2,000.”.

On Licence—minimum bar trading hours

39. Section 68 of the Principal Act is amended—

(a) by omitting subsection (1);

25 (b) by omitting from subsection (2) “the holder of that licence” and substituting “that licensee”;

(c) by adding at the end of subsection (2) “, unless the licensee has a reasonable excuse for closing the premises”; and

30 (d) by adding at the foot of the section the following penalty:
“Penalty: \$2,000.”.

Substitution

40. Sections 68A and 68B of the Principal Act are repealed and the following sections substituted:

Special Licenses—conditions

35 “68A. The holder of a Special Licence shall not, without reasonable excuse, contravene a condition specified in the licence.

Penalty: \$2,000.

Permits—conditions

“68B. A permit holder shall not, without reasonable excuse, contravene a condition specified in the permit.

Penalty: \$2,000.”.

Provision of food

5

41. Section 69 of the Principal Act is amended by adding at the foot of subsection (1) the following penalty:

“Penalty: \$2,000.”.

Notices about food

42. Section 70 of the Principal Act is amended by adding at the foot of each of subsections (1) and (3) the following penalty: 10

“Penalty: \$500.”.

Cleanliness of licensed premises

43. Section 71 of the Principal Act is amended—

(a) by omitting “The holder of a licence” and substituting “A licensee”; and 15

(b) by adding at its foot the following penalty:

“Penalty: \$2,000.”.

Maintenance of licensed premises

44. Section 72 of the Principal Act is amended— 20

(a) by omitting “The holder of a licence” and substituting “A licensee”; and

(b) by adding at its foot the following penalty:

“Penalty: \$2,000.”.

Substitution

25

45. Sections 73 and 74 of the Principal Act are repealed and the following section is substituted:

Notices of bar trading hours

“73. The holder of a General Licence or an On Licence shall not, without reasonable excuse, fail to display at each public entrance to each bar-room a notice stating the hours during which the bar-room will be open for the sale of liquor. 30

Penalty: \$500.”.

Notice of absence from licensed premises

46. Section 75 of the Principal Act is amended— 35

(a) by omitting “The holder of a licence shall not” and substituting “A licensee shall not, without reasonable excuse,”; and

- (b) by adding at its foot the following penalty:
“Penalty: \$1,000.”.

Repeal of Part

47. Part VIII of the Principal Act is repealed.

Omission of heading

- 5 48. The heading to Part IX is omitted.

Substitution

49. Section 77 of the Principal Act is repealed and the following sections are substituted:

Change in control of licensed premises

- 10 “76. Where a licensee ceases to control the licensed premises, the licensee shall, within 28 days, notify the Authority accordingly in writing, unless the Authority approves the transfer or the surrender of the licence before the end of that period.
Penalty: \$2,000.

15 **Records of liquor transactions**

- “76A. (1) For the purpose of complying with section 76B, a licensee shall keep a record of each purchase of liquor for sale in pursuance of the licence, specifying—

- 20 (a) the date of the purchase;
(b) the name and address of the person from whom the liquor was purchased;
(c) the quantity of liquor purchased; and
(d) the price, including duties, paid for the liquor.

- 25 “(2) The holder of an Off Licence shall keep a record of each exempt wholesale liquor sale specifying—

- (a) the date of the sale;
(b) the name and address of the person to whom the liquor was sold;
(c) the quantity of liquor sold;
30 (d) the price, including duties, paid by the holder of that Off Licence for the liquor; and
(e) the price, including duties, paid to the holder of that Off Licence for the liquor.

- 35 “(3) The holder of an Off Licence who sells liquor by wholesale shall keep a record of every retail sale of liquor made in pursuance of the licence, showing—

- (a) the date of the sale;
(b) the name and address of the person to whom the liquor was sold;

- (c) the quantity of liquor sold;
- (d) the price, including duties, paid to the holder of that Off Licence for the liquor; and
- (e) the sales docket number.

“(4) A licensee shall keep a record made pursuant to this section for a period of not less than 2 years after the date of the relevant transaction. 5

“(5) A licensee shall not, without reasonable excuse, contravene subsection (1), (2), (3) or (4).

Penalty for contravention of subsection (5): \$2,000. 10

Annual certificates of liquor transactions

“76B. A licensee shall, on or before 1 August in each year, submit to the Registrar—

- (a) in the case of the holder of an Off Licence—certificates in accordance with the prescribed forms; or 15
- (b) in any other case—a certificate in accordance with the prescribed form;

in relation to the liquor transactions undertaken in pursuance of the licence during the previous financial year.

Penalty: \$2,000. 20

Sale of petrol at licensed premises

“76C. A licensee shall not sell petrol at the licensed premises, except where the premises are on Block 72 in Paddys River District.

Penalty: \$2,000.

Sale of liquor—general 25

“77. A person shall not sell or expose for sale any liquor except—

- (a) in accordance with a licence or permit; or
- (b) at a private entertainment at which not more than 30 persons are present.

Penalty: \$5,000.”. 30

Supply of liquor by licensed clubs

50. Section 78 of the Principal Act is amended by adding at its foot the following penalty:

“Penalty: \$10,000.”.

Advertising by licensed clubs 35

51. Section 78A of the Principal Act is amended by adding at its foot the following penalty:

“Penalty: \$5,000.”.

Substitution

52. Section 79 of the Principal Act is repealed and the following section substituted:

Sale or supply of liquor to intoxicated or mentally ill persons

5 “79. A licensee or permit holder shall not sell or supply liquor to a person who the licensee or permit holder has reasonable grounds for believing is intoxicated or suffering from the effects of mental illness.

Penalty: \$2,000.”.

Sale or supply of liquor to persons under 18

10 **53.** Section 80 of the Principal Act is amended—

(a) by inserting in subsection (1) “supply of” after “sale or”;

(b) by adding at the foot of subsection (1) the following penalty:

“Penalty: \$2,000.”; and

15 (c) by omitting from subsection (2) all the words after “defendant” (first occurring) and substituting—

“proves that—

(a) the person to whom the liquor was sold or supplied was not less than 16 years of age;

20 (b) the defendant took reasonable measures to determine the age of that person; and

(c) the defendant had reasonable grounds for believing that the person was not less than 18 years of age.”;

(d) by inserting in subsection (3) “or supply” after “sell”; and

(e) by inserting in subsection (3) “or her” after “his”.

25 **Purchase, possession and consumption of liquor by persons under 18**

54. Section 81 of the Principal Act is amended—

(a) by omitting paragraph (1)(b) and substituting the following paragraph and penalty:

30 “(b) on premises where the sale of liquor is authorised, or in a public place—

(i) possess liquor except in the course of his or her employment; or

(ii) consume liquor.

Penalty: \$500.”;

35 (b) by inserting after subsection (1) the following subsection:

“(1A) Subparagraph (1)(b)(i) does not apply in relation to the possession of liquor in the course of a training program conducted by—

40 (a) the ACT Institute of Technical and Further Education;
or

- (b) a person approved in writing for the purpose by the Registrar.”; and
- (c) by omitting from subsection (2) “subsection (1)” and substituting “this section”.

Sending persons under 18 to obtain liquor

5

55. Section 82 of the Principal Act is amended—

- (a) by inserting in subsection (1) “, without reasonable excuse,” after “not”; and
- (b) by adding at the foot of subsection (1) the following penalty:
“Penalty: \$1,000.”.

10

Entry to bar-rooms by persons under 18

56. Section 83 of the Principal Act is amended—

- (a) by omitting “who has not attained the age of 18 years shall not enter” and substituting “under the age of 18 years shall not enter or remain in”; and
- (b) by adding at the end the following penalty:
“Penalty: \$500.”.

15

Repeal

57. Sections 84 and 84A of the Principal Act are repealed.

Obstruction of inspectors

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58. Section 85 of the Principal Act is amended by adding at its foot the following penalty:

“Penalty: \$2,000.”.

Sale of adulterated liquor

59. Section 86 of the Principal Act is amended by adding at its foot the following penalty:

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“Penalty: \$2,000.”.

Persons on licensed premises after hours

60. Section 87 of the Principal Act is amended—

- (a) by omitting from subsection (1) “Subject to this section, a” and substituting “A”;
- (b) by adding at the foot of subsection (1) the following penalty:
“Penalty: \$1,000.”; and
- (c) by inserting in paragraph (3) (c) “or her” after “his”.

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Exclusion of persons from licensed premises

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61. Section 88 of the Principal Act is amended—

- (a) by omitting from subsection (1) “The licensee of premises to which a General Licence or an On Licence relates” and

substituting "A holder of a General Licence, an On Licence or a Special Licence"; and

(b) by omitting subsection (2).

Substitution

5 **62.** Sections 89, 90, 91 and 92 of the Principal Act are repealed and the following sections substituted:

Persons on licensed premises for unlawful purposes

10 "89. A licensee shall not permit a person to remain on the licensed premises if the licensee believes on reasonable grounds that the person is there for an unlawful purpose.

Penalty: \$2,000.

Keeping licences on licensed premises

"90. A licensee shall not, without reasonable excuse, fail to keep the licence on the licensed premises.

15 Penalty: \$1,000.

Consumption of liquor on Off Licence premises

"91. (1) A person shall not consume liquor on the premises to which an Off Licence relates except in accordance with subsection (3).

Penalty: \$1,000.

20 "(2) The holder of an Off Licence shall not permit a person to consume liquor on the licensed premises except in accordance with subsection (3).

Penalty: \$2,000.

25 "(3) A person may consume liquor on the premises to which an Off Licence relates—

(a) where the person is the licensee, an employee of the licensee, or a member of the licensee's family; or

(b) where—

30 (i) the liquor was supplied for consumption as a sample of liquor available for sale;

(ii) no charge was made for the sample; and

(iii) the sample was consumed in a part of the licensed premises specified in the licence as a sampling area."

Consumption of liquor on business premises

35 **63.** Section 93 of the Principal Act is amended—

(a) by inserting in subsection (2) "or her" after "him"; and

(b) by adding at its foot the following penalty:

"Penalty: \$500."

Substitution

64. Section 93A and Parts X and XI of the Principal Act are repealed and the following Parts substituted:

“PART XI—EVIDENCE**Drinks in sealed containers**

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“94. In proceedings for an offence against this Act, a beverage in a sealed container that purports to contain liquor within the meaning of the relevant offence provision is to be taken to be liquor within the meaning of that provision unless the contrary is established.

Licensees and permit holders

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“95. In any court proceedings, a certificate signed by the Registrar, stating—

(a) that, on each specified day, a specified person was or was not the holder of a licence of the specified kind in relation to the specified premises; or

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(b) that, on each specified day, a specified person was or was not the holder of a permit in relation to the specified premises;

is evidence of the matters so stated.

“PART XII—HEARINGS**Interpretation**

20

“96. In this Part—

‘application’ means an application for—

(a) a licence;

(b) the cancellation or suspension of a licence;

(c) an alteration of licensed premises under Part VI;

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(d) an approval under Part VII;

(e) a permit; or

(f) the cancellation of a permit.

Notice of hearing

“97. (1) Where the Authority fixes a time, date and place for the hearing of an application, the Registrar shall, not less than 7 days before that date, serve on—

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(a) in the case of an application for the cancellation of a licence or permit—each relevant licensee or permit holder; or

(b) in any other case—the applicant;

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notice of that time, date and place.

“(2) In the case of an application under Part VI or VII, the notice under subsection (1) shall be accompanied by a copy of the Registrar’s report in relation to the application.

5 “(3) Where an application is made for the cancellation of a licence or permit, the notice under subsection (1) shall be accompanied by a copy of—

(a) the application for cancellation; and

(b) in the case of an application for the cancellation of a permit—the Registrar’s report (if any) about any relevant complaints.

10 **Procedure**

“98. (1) At a hearing, the procedure shall be at the discretion of the Authority.

15 “(2) At a hearing, the Authority shall give the applicant and, in the case of an application for the cancellation of a licence or permit, each relevant licensee or permit holder, an opportunity to be heard.

“(3) At a hearing, the Authority is not bound by the rules of evidence, but may inform itself in such manner as it thinks fit.

“(4) At a hearing, the Authority may take evidence on oath, or affirmation, administered by a member of the Authority.

20 “(5) The Authority may adjourn a hearing from time to time and from place to place.

Prohibition of publication of names and evidence

“99. (1) Where the Authority believes on reasonable grounds that—

25 (a) the publication of evidence given, or intended to be given, in a hearing; or

(b) the publication of the name of any person involved in the hearing, or involved in a matter raised during the hearing;

30 is likely to cause undue hardship to, or to unduly prejudice, any person, the Authority may, at any time during or after the hearing, make an order—

(c) forbidding the publication of the evidence or a specified part of the evidence, or of a report of the evidence, either absolutely or subject to such conditions as the Authority specifies or for such period as is specified; or

35 (d) forbidding the publication of the name of such a person.

“(2) A person shall not contravene an order under subsection (1).
Penalty: \$1,000.

40 “(3) For the purposes of this section, the publication of a reference or allusion to a person, where the publication would be likely to disclose the identity of the person, is to be taken to be a publication of the name of the person.

Private hearings

"100. (1) A hearing shall be in public, unless the Authority directs that the hearing be in private.

"(2) The Authority shall only make a direction under subsection (1) if it is satisfied on reasonable grounds that the conduct of the hearing in public would be likely to cause undue hardship to, or to unduly prejudice, any person. 5

"(3) Where the Authority makes a direction under subsection (1), a person shall not enter, or remain in, the room in which a hearing is being conducted except with the permission of the Authority. 10

Penalty for contravention of subsection (3): \$1,000.

Legal representation

"101. Each applicant (including the Registrar) and, in the case of an application for the cancellation of a licence or permit, each relevant licensee or permit holder, may be represented at a hearing of the application by a barrister or solicitor. 15

Witnesses

"102. (1) The senior member may, by writing, summon a person to attend a hearing at a time and place specified in the summons to give evidence and to produce any books and documents in that person's custody or control that are— 20

- (a) relevant to any matter at issue in the hearings; and
- (b) specified in the summons.

"(2) A person served with a summons under subsection (1) shall not, without reasonable excuse, fail to comply with the summons. 25

Penalty: \$1,000.

"(3) A witness at a hearing shall not refuse both to be sworn and to make an affirmation.

Penalty: \$1,000.

"(4) A person who attends a hearing for the purpose of giving evidence is entitled to receive such fees and travelling expenses, in accordance with the Second Schedule to the Public Works Committee Regulations in force under the *Public Works Committee Act 1969* of the Commonwealth, as the senior member directs. 30

"(5) Fees and allowances payable to a person in accordance with subsection (4) are payable— 35

- (a) if the person attended the hearing, whether on summons or not, by reason of a request by a person other than the senior member, a member of the Authority or the Registrar—by the person at whose request the first-mentioned person attended; or 40
- (b) in any other case—by the Territory.

Evidence at hearings

“103. (1) A witness at a hearing shall not knowingly give false evidence about any matter material to the hearing.

Penalty: \$1,000 or imprisonment for 6 months, or both.

5 “(2) A witness at a hearing shall not refuse to give evidence about any matter material to the hearing.

Penalty: \$1,000 or imprisonment for 6 months, or both.

10 “(3) A statement made by a witness at a hearing is not, except in proceedings for an offence against section 103 of this Act, or against section 35 or 36 of the *Crimes Act 1914* of the Commonwealth, admissible as evidence against that person in criminal proceedings.

“PART XIII—SUPREME COURT APPEALS

Decisions from which appeal lies

“104. Where the Authority—

- 15 (a) refuses to authorise the issue or transfer of a licence;
(b) refuses to approve the cancellation of a licence under section 42C;
(c) refuses to grant approval under subsection 42E (1) or (3);
(d) gives directions to a licensee;
20 (e) suspends a licence;
(f) cancels a licence under Division 5 of Part V;
(g) refuses to approve the alteration of licensed premises;
(h) refuses to approve the closure of licensed premises;
(i) refuses to direct the Registrar to issue a permit;
25 (j) directs the Registrar to issue a permit in terms different from those sought by the applicant; or
(k) cancels a permit;

the applicant, licensee or permit holder, as the case may be, may, within 21 days after being notified of the Authority's decision, appeal to the Supreme Court.

Appeals

“104A. (1) An appeal under this Part is in the nature of a re-hearing.

“ (2) The Registrar shall be the respondent on an appeal.

35 “ (3) The Supreme Court may—

- (a) affirm, set aside, or vary the Authority's decision; or
(b) make such other order as justice requires.

“(4) Where the Supreme Court sets aside or varies a decision, the Court shall set out in its decision the reasons for the decision.”.

Part renumbering

65. Part XII of the Principal Act is renumbered as Part XIV.

Substitution

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66. Sections 100, 101, 101A, 102, 102A, 103, 103A, 104 and 105 of the Principal Act are repealed and the following sections substituted:

Conduct of directors, servants and agents

“104B. (1) Where, for the purposes of this Act, it is necessary to establish the state of mind of a body corporate or a natural person in relation to particular conduct, it is sufficient to show— 10

(a) that a director, servant or agent of the body, or a servant or agent of the person, had that state of mind; and

(b) that the conduct was engaged in by that director, servant or agent within the scope of his or her actual or apparent authority. 15

“(2) A reference in subsection (1) to the state of mind of a body or person includes a reference to—

(a) the knowledge, intention, opinion, belief or purpose of the body or person; and

(b) the body's or person's reasons for the intention, opinion, belief or purpose. 20

“(3) Any conduct engaged in on behalf of a body corporate or a natural person by a director, servant or agent of the body, or a servant or agent of the person, within the scope of his or her actual or apparent authority is to be taken, for the purposes of this Act, to have been engaged in also by the body or person unless the body or person establishes that reasonable precautions were taken and due diligence was exercised to avoid the conduct. 25

“(4) A reference in this section to engaging in conduct includes a reference to failing or refusing to engage in conduct. 30

Corporations—penalties

“104C. (1) Where a body corporate is convicted of an offence against this Act, the penalty that the court may impose is a fine not exceeding 5 times the maximum amount that, but for this section, the court could impose as a pecuniary penalty for that offence. 35

“(2) This section does not apply in relation to an offence against subsection 43F (4) or 43G (6) or section 78 or 78A.

Institution of proceedings for offences

“105. Proceedings in respect of an offence against this Act shall not be instituted except—

- 5 (a) in the case of an offence against subsection 17B (2A) or section 79, 80, 81, 82 or 83—by the Registrar or a police officer; and
 (b) in any other case—by the Registrar.”.

Determined fees

10 67. Section 105A of the Principal Act is amended by omitting from subsection (2) all the words after “sold” (first occurring) and substituting “by the holder of an Off Licence, the Minister shall disregard all exempt wholesale liquor sales by that person”.

Repeal

68. Part XIII of the Principal Act is repealed.

Renewal fees—saving

15 69. Where, immediately before the commencement of this Act, a licensee was liable to pay an amount of money under subsection 94A (2) of the Principal Act, section 94A of the Principal Act continues to apply to that licensee notwithstanding the repeal of that section by this Act.

20 **Transitional**

70. (1) Where, immediately before the commencement of this Act, a decision had not been made in respect of an application under or for the purposes of a provision or provisions of the Principal Act for—

- 25 (a) a licence;
 (b) the renewal of a licence;
 (c) the transfer of a licence;
 (d) the cancellation of a licence;
 (e) the alteration of licenced premises;
 (f) the closure of licensed premises;
30 (g) a permit; or
 (h) the cancellation of a permit;

that application is to be taken to have been made under or for the purposes of the corresponding provision or provisions of the Principal Act as amended by this Act, and the Principal Act as so amended
35 applies in relation to any decision in respect of that application.

(2) In its application to a decision in relation to an application referred to in subsection (1), the Principal Act as amended by this Act applies in relation to circumstances arising before or after the commencement of this Act.

40 (3) Where, immediately before the commencement of this Act, the Registrar had applied to the Authority under section 45 of the Principal

Act for an order for directions to be given to a licensee, section 46 of the Principal Act as amended by this Act applies to a decision of the Authority in relation to that application.

(4) Section 46 of the Principal Act as amended by this Act applies in relation to circumstances arising before or after the commencement of this Act. 5

(5) Division 4 of Part V of the Principal Act as amended by this Act applies in relation to circumstances arising before or after the commencement of this Act.

(6) Where, immediately before the commencement of this Act, a hearing under the Principal Act had not been concluded, for the purposes of the Principal Act as amended by this Act the hearing is to be taken to be a hearing under Part XII of the Principal Act as so amended. 10

NOTE

1. Ordinance No. 19, 1975 as amended by Nos. 6, 61 and 63, 1976; Nos. 53 and 66, 1977; Nos. 35 and 46, 1978; Nos. 10, 24 and 34, 1979; Commonwealth Act No. 116, 1981; Nos. 59 and 87, 1982; No. 22, 1984; No. 41, 1986; Nos. 33 and 72, 1987; No. 27, 1988; Nos. 21 and 38, 1989.