

AUSTRALIAN CAPITAL TERRITORY

LIQUOR ORDINANCE (No. 2) 1962

EXPLANATORY MEMORANDUM

No. 18 of 1962

This draft Ordinance will effect amendments to the provisions of the Liquor Ordinance 1929-1962 relating to exemption of buildings controlled by the Australian National University, appeals against decisions of the Licensing Magistrate and applications for Club Licences.

Section 6A of the Liquor Ordinance 1929-1962 exempts University House from the provisions of the Ordinance relating to the sale of liquor. This exemption is conditional upon the payment by the Council of the University on or before 31st December each year to the licensing Registrar, appointed under the Ordinance, of a fee equal to four percentum of the amount paid or payable for all liquor (including duties on that liquor) purchased or procured, for sale in University House, during the year ended on 31st October next preceding and provides further that liquor shall not be sold or purchased in University House contrary to a provision of a Statute made under the Australian National University Act 1946-1960.

The Minister for the Interior has approved amendments of the Liquor Ordinance to provide exemptions for University buildings similar to that already provided by section 6A in the case of University House. The Minister's approval has been given subject to the conditions:

- (a) that the sale of liquor in these buildings should be controlled by University Statute made under the Australian National University Act 1946-1960; and

- (b) that before the Statutes are presented to the Governor-General for signature they should be referred to the Licensing Magistrate for his comments.

The intention is that the Ordinance will not be brought into operation until such time as the Council of the University has made satisfactory provision for the control of the sale of liquor in University premises.

Sub-clause (1) of clause 3 of the amending Ordinance provides for the extension of the provisions of sub-sections (1.) and (2.) of section 6A of the Principal Ordinance to apply to all buildings occupied by the University in which the sale of liquor is authorized by University Statute.

Sub-section (4.) of section 6A. of the Principal Ordinance has been amended to define “Statute” as meaning “a Statute of the University”.

The appellate jurisdiction of the Licensing Magistrate is provided in Section 9 of the Principal Ordinance, which currently gives the Magistrate jurisdiction to hear and determine any appeal against any order or decision made or given by him, by way of rehearing. The only review of the Magistrate’s decision that can be availed of is the rehearing procedure where new evidence is available which could not have been previously submitted or that the decision was erroneous in some point of law.

Provision has been requested for appeals to be allowed against all decisions of the Licensing Magistrate and amendment of the Ordinance to modify the requirement for a resolution of the majority of members of a club as a condition precedent to an application for a Club licence. In view of the character of the licensing jurisdiction it is considered that appeals “on the merits” from decisions of the Magistrate would serve no good purpose but that provision should be made for appeals to the Supreme Court on points of law. Clause 7 inserts a new Part III A relating to such appeals and dealing with the powers of the Supreme Court on hearing appeals. This clause also includes an amendment providing for a licence or permit to remain in force pending the determination of an appeal. Clause 6 of the draft Ordinance correspondingly

removes from the rehearing procedure in section 39 the matter of a decision of the Licensing Magistrate which is erroneous in some point of law.

In the past some applicants for Club Licences have experienced delay in obtaining the resolutions by a majority of all Club members required by Section 26 of the Principal Ordinance and to overcome this problem clause 5 of the amending Ordinance effects an amendment to provide that the necessary resolution may be passed by a majority of those members of a club who are present at a general meeting of the club held for that purpose.