

AUSTRALIAN CAPITAL TERRITORY

No. 10 of 1979

LIQUOR (AMENDMENT) ORDINANCE 1979

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AUSTRALIAN CAPITAL TERRITORY

No. 10 of 1979

An Ordinance to amend the *Liquor Ordinance 1975*

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated this twenty-fourth day of May 1979.

ZELMAN COWEN
Governor-General

By His Excellency's Command,

R. ELLICOTT
Minister of State for the Capital Territory

LIQUOR (AMENDMENT) ORDINANCE 1979

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| Short title | 1. This Ordinance may be cited as the <i>Liquor (Amendment) Ordinance 1979</i> . ¹ |
| Principal Ordinance | 2. In this Ordinance, "Principal Ordinance" means the <i>Liquor Ordinance 1975</i> . ² |
| Commencement | 3. This Ordinance shall come into operation on 1 June 1979. |
| Interpretation | 4. Section 4 of the Principal Ordinance is amended—
(a) by inserting in sub-section (1), after the definition of "Chairman", the following definitions:
"Deputy Registrar" means the Deputy Registrar of Liquor Licences;
"House of Assembly" means the Australian Capital Territory House of Assembly established by the <i>House of Assembly Ordinance 1936</i> ;"; and
(b) by omitting from sub-section (1) the definition of "Legislative Assembly". |
| Application | 5. Section 5 of the Principal Ordinance is amended—
(a) by inserting in sub-section (1), after paragraph (d), the following paragraph: |

“(da) the sale of liquor on premises on which meetings of the House of Assembly are held;”;

- (b) by omitting sub-section (4) and substituting the following sub-sections:

“(4) On or before the thirtieth day of June in each year, the University shall pay to the Registrar a fee equal to 7 per cent of the aggregate amounts (including duties) paid or payable in respect of the purchase, during the last preceding calendar year, of liquor for sale in an exempt University building.

“(4A) On or before the thirtieth day of June in each year, the Canberra College of Advanced Education shall pay to the Registrar a fee equal to 7 per cent of the aggregate of the amounts (including duties) paid or payable in respect of the purchase, during the last preceding calendar year, of liquor for sale in an exempt College building.”; and

- (c) by omitting sub-section (7) and substituting the following sub-sections:

“(7) On or before the thirtieth day of June in each year, the Canberra Theatre Trust shall pay to the Registrar a fee equal to 8 per cent of the aggregate of the amounts (including duties) paid or payable in respect of the purchase, during the last preceding calendar year, of liquor for sale at the Canberra Theatre Centre.

“(7A) An amount that, by virtue of sub-section (4), (4A) or (7), is payable on or before the thirtieth day of June in a year becomes due, for the purpose of section 34 of the *Interpretation Ordinance* 1967, on the first day of July in that year.”.

6. Section 7 of the Principal Ordinance is amended—

Constitution
of the Board

- (a) by omitting from each of sub-sections (1), (3) and (6) the word “Legislative” (wherever occurring) and substituting “House of”; and
- (b) by adding at the end thereof the following sub-sections:

“(8) At a hearing or a meeting of the Board at which the Chairman is present the Chairman shall preside.

“(9) Where the Chairman is not present at a hearing or a meeting of the Board, the members of the Board who are present shall elect one of their number to preside and the member so elected shall preside at the hearing or meeting, as the case may be.

“(10) Where a person is acting as Chairman in pursuance of an appointment under sub-section 12 (2), a reference in sub-section (8) or (9) to the Chairman shall be read as a reference to the person so acting.

“(11) The performance of the functions, and the exercise of the powers, of the Board are not affected by reason only of there being a vacancy or vacancies in the membership of the Board.

“(12) At a meeting of the Board, 2 members of the Board constitute a quorum.

“(13) For the purposes of a hearing under this Ordinance, the Board shall be constituted by not less than 2 members.”.

7. Section 8 of the Principal Ordinance is repealed and the following section substituted:

Resignation

“8. (1) A member of the Board may resign his office by writing under his hand delivered to the Minister.

“(2) The resignation of a member of the Board takes effect on the day on which the resignation is delivered to the Minister or, if a later day is specified in the resignation, on that day.”.

Acting
appoint-
ments

8. Section 12 of the Principal Ordinance is amended—

(a) by omitting “Legislative Assembly” and substituting “House of Assembly”; and

(b) by omitting “Assembly” (wherever occurring) and substituting “House of Assembly”.

9. Section 14 of the Principal Ordinance is repealed and the following section substituted:

Decision of
questions

“14. (1) Subject to sub-section (2), a question arising at a meeting of the Board or at a hearing conducted by the Board shall be determined in accordance with the opinion of a majority of the members of the Board.

“(2) Where, at a meeting of the Board, the members of the Board who are present are equally divided in opinion on a question arising in relation to an application for a licence or permit, the question shall be taken to be decided in favour of the applicant.”.

10. After section 14 of the Principal Ordinance the following section is inserted in Division 1 of Part II:

Deputy of
House of
Assembly
member

“14A. (1) There shall be one deputy of the member of the Board referred to in paragraph 7 (1) (b).

“(2) Subject to this Ordinance, the deputy of the member of the Board referred to in paragraph 7 (1) (b)—

(a) shall be elected, as occasion requires, by the House of Assembly;

(b) holds office as the deputy of that member from the date of his election until—

- (i) the term of office of the member that was current when the deputy was elected expires; or
 - (ii) the member otherwise ceases to be a member of the Board,
- whichever first occurs; and
- (c) is eligible for re-election.

“(3) Where the member of the Board referred to in paragraph 7 (1) (b) is for any reason unable to attend meetings of the Board, the deputy of that member may attend meetings of the Board during that inability.

“(4) Where the member of the Board referred to in paragraph 7 (1) (b) is for any reason unable, or likely to be unable, to be present throughout a hearing conducted by the Board, the Board shall, for the purposes of the hearing and any exercise of its powers resulting from that hearing, be constituted as if the deputy of that member were the member of the Board referred to in paragraph 7 (1) (b).

“(5) Where the deputy of the member of the Board referred to in paragraph 7 (1) (b) attends a meeting of the Board in pursuance of sub-section (3) or participates in a hearing in pursuance of sub-section (4), the Ordinance applies to and in relation to the meeting or hearing and anything done by the deputy at, or arising out of, the meeting or hearing as if the deputy were a member of the Board.

“(6) Upon the election of a person in accordance with sub-section (2), the person presiding at the meeting of the House of Assembly shall certify in writing to the Minister the name of the person elected and the date of the election, and the person specified in the certificate shall, for the purposes of this Ordinance, be conclusively presumed to have been duly elected on that date.

“(7) Section 8 applies to a person elected in accordance with sub-section (2) as if he were a member of the Board.”

11. Section 15 of the Principal Ordinance is amended by adding at the end thereof the following sub-sections: Registrar
and Deputy
Registrar

“(3) The Minister may appoint a person who is an officer or employee within the meaning of the *Public Service Act* 1922 to be the Deputy Registrar of Liquor Licences.

“(4) When the Registrar is absent from duty or from the Territory, the Deputy Registrar may exercise the powers, and shall perform the duties, of the Registrar under this Ordinance.

“(5) Subject to sub-section (4), the Deputy Registrar shall perform such duties as the Registrar directs.

“(6) Where, in accordance with sub-section (4), the Deputy Registrar has exercised a power, or performed a duty, of the Registrar, this

Ordinance applies as if the power had been exercised or the duty performed by the Registrar.”.

12. Section 17 of the Principal Ordinance is repealed and the following section substituted:

Inspectors' powers of entry

“17. (1) An Inspector may, at any time at which the sale of liquor is authorized by a licence or permit, enter and inspect the premises in respect of which the licence or permit was issued.

“(2) An Inspector may enter and inspect any premises at any time at which there are reasonable grounds for suspecting that liquor is being sold on the premises.

“(3) An Inspector who enters premises in pursuance of this section is not entitled to remain on the premises if, on request by the occupier or licensee of the premises, he does not produce a certificate signed by the Minister stating that he is an Inspector for the purposes of this Ordinance.

“(4) An inspector who enters premises in pursuance of this section may—

- (a) examine, take stock of and take samples of any liquor on the premises;
- (b) inspect any books, documents or other papers on the premises; and
- (c) remove any books, documents or papers from the premises for the purpose of having copies made.

“(5) An Inspector may retain a book, document or paper removed from premises in pursuance of sub-section (4) for so long as is reasonably necessary for the purpose of having copies of the book, document or paper made.

“(6) An Inspector who takes a sample of liquor in pursuance of sub-section (4) shall—

- (a) divide the sample so taken into approximately equal parts and put each part in a sealed container to which is affixed a label bearing—
 - (i) the signature of the Inspector;
 - (ii) particulars of the premises on which the sample was taken; and
 - (iii) particulars of the date and time when the sample was taken; and
- (b) deliver one of the containers to the person apparently in charge of the premises for the time being and the other container to an approved analyst.

“(7) In any proceedings in a court, a certificate signed by an approved analyst and stating the result of analysis of the contents of a container delivered to him by an Inspector is evidence of the matters stated in the certificate.

“(8) For the purpose of sub-section (7), a document that purports to be signed by an approved analyst shall be taken to be so signed unless the contrary is proved.

“(9) A person shall not, except for the purposes of this Ordinance or in the course of proceedings in a court in respect of an offence, make a record of, or divulge to another person, information that he has acquired by reason of the inspection of books, documents or papers in pursuance of this section.

“(10) This section, other than sub-section (3), applies to and in relation to a member of the Police Force of the Territory as if the member were an Inspector.

“(11) In this section—

‘approved analyst’ means a person approved by the Board for the purposes of this section;

‘liquor’, for the purposes of sub-sections (4) and (6), includes any liquid in respect of which there are reasonable grounds for believing the liquid to contain alcohol.”

13. Section 20 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) “Legislative” and substituting “House of”;
- (b) by omitting from sub-section (2) “Legislative” and substituting “House of”; and
- (c) by omitting from sub-section (3) “Legislative Assembly” and substituting “House of Assembly and the Chairman of the Board”.

Disallowance
of
amendment
of Manual

14. Section 29 of the Principal Ordinance is repealed and the following section substituted:

“29. Subject to this Ordinance, a Club Licence authorizes the club by which the licence is held to supply liquor at any time on the licensed premises of the club, for consumption on, or away from, those premises, to—

Club Licence

- (a) members of the club; and
- (b) persons on those premises at the invitation of a member of the club who is present on those premises.”

15. Section 34 of the Principal Ordinance is repealed and the following section substituted:

Conditions
for issue,
transfer and
renewal of
Club
Licences

“34. (1) The Board shall not authorize the issue, or approve the transfer, of a Club Licence except to a club that is a body corporate.

“(2) The Board shall not authorize the issue, or approve the transfer, of a Club Licence to a club unless—

- (a) the club is established for the purpose of recreation or for promoting social, religious, political, literary, scientific, artistic, sporting or athletic purposes or other purposes approved by the Board;
- (b) the constitution or rules of the club provide for the nomination or election of financial members (other than foundation members) and for the keeping of a record of each such nomination and election for a period not less than 2 years;
- (c) the constitution or rules of the club provide that a person who is not a member of the club shall not be supplied with liquor on the premises of the club unless the person is on the premises of the club at the invitation of a member of the club who is present on the premises of the club;
- (d) the constitution or rules of the club provide that the club shall hold a meeting of the members of the club once at least in every calendar year for the purpose of electing a committee to manage the affairs of the club; and
- (e) the constitution or rules of the club provide that the club shall not make to any officer, member or employee of the club any payment by way of commission, profit or allowance from or upon the receipts from the supply of liquor on the premises of the club.

“(3) The Board shall not authorize the issue or renewal of a Club Licence unless the applicant club, on the day immediately preceding the day on which application was made for the licence or renewal, as the case may be, had not less than 200 financial members who had attained the age of 18 years.

“(4) The Board shall not authorize the transfer of a Club Licence to a club unless the club, on the day immediately preceding the day on which application was made for the transfer of the licence, had not less than 200 financial members who had attained the age of 18 years.

“(5) Except with the consent of the Board, the constitution or rules of a club that is the holder of a Club Licence shall not be amended in relation to—

- (a) the objects of the club;
- (b) the admission of persons to membership of the club;
- (c) the supply of liquor, on the premises of the club, to persons who are not members of the club;
- (d) the holding of meetings of members of the club for the purpose of electing a committee to manage the affairs of the club; or

- (e) the making of payments to officers, members or employees of the club by way of commission, profit or allowance from or upon the receipts from the supply of liquor on the premises of the club.

“(6) An amendment of the constitution or rules of a club made in contravention of sub-section (5) is of no effect for any purpose.”.

16. Section 37 of the Principal Ordinance is repealed and the following section substituted:

“37. (1) A licence comes into force on the day on which it is issued. Duration of licence

“(2) Subject to this Ordinance, a licence, unless renewed, remains in force—

- (a) where, on the day on which the issue of the licence is approved by the Board, a determination under sub-section (3) is in force in relation to the licence—until the expiration of the day specified in that determination;
- (b) where, at the request of the applicant for the licence, the Board has directed that the licence expire on a day earlier than the day on which, but for the direction, the licence would have expired—until the expiration of the day specified in the direction; and
- (c) in any other case—until the expiration of the thirtieth day of November next following the day on which the licence was issued.

“(3) The Board may determine that licences, or licences of a class specified by the Board, shall cease to be in force on a day other than the day referred to in paragraph (2) (c).”.

17. Section 46 of the Principal Ordinance is amended by adding at the end thereof the following sub-section: Powers of the Board

“(7) The Board shall not give a direction to a licensee by reason of the failure of the licensee to perform the obligation imposed upon him by sub-section 69 (1) if the licensee satisfies the Board that he took reasonable measures to ensure that he performed that obligation.”.

18. Sections 61 to 65 (inclusive) of the Principal Ordinance are repealed and the following sections substituted:

“61. (1) Subject to this Ordinance, a permit authorizes the holder of the permit, during the period or periods, and at the place or premises, specified in the permit, to sell liquor, being liquor in respect of which the amount paid or payable by the holder of the permit does not exceed the amount specified in the permit. Authority conferred by permit

“(2) A permit does not authorize the holder of the permit—

- (a) to sell liquor in a closed container; or

- (b) to sell liquor in a container together with the means of closing the container.

Application
for permit

“62. An application for the issue of a permit shall be made—

- (a) by lodging with the Registrar an application in accordance with the prescribed form signed by the applicant; and
- (b) paying to the Registrar the amount of the fee payable for the issue of the permit sought by the applicant.

Issue of
permit by
Registrar

“63. Subject to section 64, where an application has been made in accordance with section 62, the Registrar shall issue to the applicant the permit sought by the applicant.

Application
to be
submitted to
Board in
certain
circum-
stances

“64. (1) Where—

- (a) an application has been made in accordance with section 62; and
- (b) the Registrar is of the opinion that there are facts or circumstances by reason of which the Board may be entitled to decline to direct the issue of the permit sought by the applicant,

this section applies to the application.

“(2) The Registrar shall submit an application to which this section applies, together with a report stating the grounds upon which he has formed the opinion referred to in paragraph (1) (b), to the Chairman.

“(3) Where an application to which this section applies is submitted by the Registrar to the Chairman, the Chairman shall cause the application and the report of the Registrar to be considered by the Board as soon as is reasonably practicable.

“(4) After considering an application to which this section applies, the Board shall either—

- (a) direct the Registrar to issue the permit sought by the applicant; or
- (b) conduct a hearing in relation to the application.

“(5) Where the Board decides to conduct a hearing in relation to an application to which this section applies, the Registrar shall give to the applicant notice in writing of the date on which, and the time and place at which, the hearing will commence.

“(6) Sub-sections (2), (3), (4) and (5) of section 31 apply to, and in relation to, the hearing of an application to which this section applies as if it were an application for a licence.

Direction for
issue of
permit

“65. (1) Subject to this Part, in the case of an application under section 62 in respect of which a hearing is conducted by the Board, the Board shall direct the Registrar to issue the permit sought by the applicant unless—

- (a) there will not be, on the premises or at the place to which the application relates, adequate toilet facilities for persons attending the entertainment or entertainments specified in the application;
- (b) the conduct of the entertainment or entertainments specified in the application is likely to result in undue disturbance or inconvenience to persons residing in the neighbourhood of the premises or place to which the application relates; or
- (c) the quantity of liquor in respect of which the permit is sought exceeds the quantity reasonably required for the purpose of the entertainment or entertainments specified in the application.

“(2) Where, in relation to an application for a permit, the Board is satisfied that a ground specified in paragraph (1) (a) or (1) (b) has been established but that the public interest could be adequately protected by the issue of a permit subject to conditions, the Board may direct the Registrar to issue to the applicant a permit that is subject to such conditions as the Board thinks necessary to protect the public interest.

“(3) Where, in relation to an application for a permit, the Board is satisfied that a permit should be issued to the applicant but that the permit should specify a period or periods different from those sought by the applicant, the Board may direct the Registrar to issue to the applicant a permit specifying such period or periods as the Board thinks appropriate.

“(4) Where, in relation to an application for a permit, the Board is satisfied that the ground specified in paragraph (1) (c) has been established, the Board, may, if it thinks fit, direct the Registrar to issue to the applicant a permit that specifies such amount for the purposes of sub-section 61 (1) as the Board thinks appropriate.

“65A. A permit shall be in accordance with the prescribed form and, in the case of a permit issued at the direction of the Board, in accordance with the direction. Form of permit

“65B. The fee for the issue of a permit is— Fee for permit

- (a) where the amount specified in the permit for the purposes of sub-section 61 (1) exceeds \$125—an amount equal to 8 per cent of the amount so specified; and
- (b) in any other case—\$10.

“65C. Within 7 days after the expiration of the period or the last period, as the case may be, during which the sale of liquor is authorized by a permit, the holder of the permit shall deliver the permit to the Registrar. Return of permit to Registrar

Penalty: \$500.

Seller of liquor to permit-holder to endorse permit

“65D. Where the holder of a permit produces the permit to a person in connexion with the purchase, by the holder of the permit, of liquor from that person, the person shall—

- (a) endorse on the permit particulars of—
 - (i) the name of the person;
 - (ii) the type and quantity of liquor purchased; and
 - (iii) the price paid for the liquor; and
- (b) sign the endorsement.

Return of permit fee

“65E. (1) Subject to this section, where—

- (a) for any reason, other than the cancellation of the permit, the holder of a permit does not conduct the entertainment or entertainments in respect of which the permit was issued;
- (b) the fee paid for the issue of the permit exceeded \$10; and
- (c) the holder of the permit delivers the permit to the Registrar together with a statement in writing signed by him and stating—
 - (i) that all of the liquor purchased for sale in pursuance of the permit has been returned to the person or persons from whom it was purchased; or
 - (ii) no liquor was purchased for sale in pursuance of the permit,

there is due by the Commonwealth to the holder of the permit an amount equal to the amount by which the fee paid for the issue of the permit exceeded \$10.”

19. Sections 67 and 68 of the Principal Ordinance are repealed and the following sections substituted:

General Licence—minimum bar trading hours

“67. (1) Subject to sub-section 68A (5), the holder of a General Licence may open the licensed premises on any day for the sale of liquor.

“(2) The holder of a General Licence shall, on each day that is not a non-trading day for the holder of that licence, open the licensed premises for the sale of liquor.

“(3) The holder of a General Licence shall, on each day on which the licensed premises are open for the sale of liquor, keep open, at all times between noon and 8 o'clock in the evening, at least one public bar-room for the sale of liquor to members of the public.

“(4) The holder of a General Licence shall not have a bar-room open for the sale of liquor unless that bar-room is open for the sale of liquor to persons of both sexes.

On Licence—minimum bar trading hours

“68. (1) Subject to sub-section 68A (5), the holder of an On Licence may open the licensed premises on any day for the sale of liquor.

“(2) The holder of an On Licence shall, on each day that is not a non-trading day for the holder of that licence, open the licensed premises for the sale of liquor.

“(3) The holder of an On Licence shall, on each day on which the licensed premises are open for the sale of liquor, keep open, for a period not less than, or for periods that, in the aggregate, are not less than, 6 hours, at least one bar-room for the sale of liquor to members of the public of both sexes.

“68A. (1) For the purposes of sections 67 and 68, the following days are non-trading days for the holder of any General Licence or On Licence: Permitted non-trading days

- (a) Christmas Day;
- (b) Good Friday;
- (c) every day that, by or under the *Holidays Ordinance* 1958, is to be observed as a public holiday in the Territory;
- (d) every Sunday.

“(2) For the purposes of sections 67 and 68, a day is a non-trading day for the holder of a particular General Licence or On Licence if the Board has, in pursuance of sub-section (3), approved the closure on that day of the premises to which the licence relates.

“(3) The Board may approve the closure—

- (a) on any one or more days; or
- (b) from time to time at intervals specified by the Board,

of the premises to which a particular General Licence or On Licence relates.

“(4) The Board shall not approve the closure of premises under sub-section (3) unless it is satisfied that, having regard to the need to ensure that the reasonable requirements of the public are met, the closure proposed is not unreasonable.

“(5) The holder of a licence shall not open any part of the premises to which the licence relates for the sale of liquor on a day that is, by virtue of sub-section (2), a non-trading day for the holder of that licence.

“68B. (1) An application for the approval of the Board under section 68A of the closure of premises shall be made by lodging an application in writing with the Registrar. Application for approval of closure

“(2) An application under sub-section (1) shall be made—

- (a) not less than 21 days before the date, or the earliest date, as the case may be in respect of which approval under section 68A is sought; or
- (b) within such further time as the Board allows.

“(3) Where an application has been made in accordance with sub-sections (1) and (2), the Registrar shall submit the application to the Chairman, together with a report stating—

- (a) whether, in the opinion of the Registrar, the application ought to be granted; and
- (b) if the Registrar is of the opinion that the application ought not to be granted, the facts and circumstances on which his opinion is based.

“(4) Where an application under this section is submitted by the Registrar to the Chairman, the Chairman shall cause the application and the report of the Registrar to be considered by the Board as soon as is reasonably practicable.

“(5) After considering an application under this section, the Board shall either—

- (a) grant the approval sought by the applicant; or
- (b) conduct a hearing in relation to the application.

“(6) Where the Board decides to conduct a hearing in relation to an application under this section, the Registrar shall give to the applicant notice in writing of the date on which, and the time and place at which, the hearing will commence.

“(7) Sub-sections (2), (3), (4) and (5) of section 31 apply to, and in relation to, the hearing of an application under this section as if it were an application for a licence.

“(8) Where the Board has approved the closure of licensed premises, the licensee of the premises shall, for not less than 7 days before the first day on which closure of the premises has been approved, display in the licensed premises a notice setting out particulars of the day or days on which, and the times at which, the premises will be closed in pursuance of the approval.”

Provision of
food

20. Section 69 of the Principal Ordinance is amended by omitting from sub-section (1) “shall take reasonable measures to ensure that he has” and substituting “shall have”.

Licenses to
keep
premises
clean

21. Section 71 of the Principal Ordinance is amended by omitting “General Licence or an On Licence” and substituting “licence”.

Appeals to
Supreme
Court

22. Section 76 of the Principal Ordinance is amended by omitting paragraphs (1) (f) and (1) (g) and substituting the following paragraphs:

- “(f) has cancelled a permit;
- (g) has refused to approve an alteration of licensed premises;
- (h) has directed the issue of a permit in terms different from those sought by the applicant;

- (i) has refused to approve the closure of licensed premises;
- (j) has refused to make a declaration under sub-section 99 (12); or
- (k) has refused to grant leave for the purpose of sub-section 101A (8) or 101A (11).”.

23. Sections 77 and 78 of the Principal Ordinance are repealed and the following sections substituted:

“77. (1) Subject to this section, a person shall not sell or expose for sale any liquor unless the sale or exposure for sale is authorized by a licence or permit. Sale of liquor by unlicensed persons

“(2) A person who sells liquor at an entertainment conducted by him does not commit an offence against sub-section (1) if—

- (a) only particular persons have been invited to attend the entertainment; and
- (b) not more than 30 persons have been so invited.

“78. (1) A club that is the holder of a Club Licence shall not supply liquor to a person otherwise than on the licensed premises of the club. Club Licensee not to supply except to members, &c.

“(2) A club that is the holder of a Club Licence shall not supply liquor to a person unless—

- (a) the person is a member of the club; or
- (b) the person is on the licensed premises of the club at the invitation of a member of the club who is present on those premises.

“78A. A club that is the holder of a Club Licence shall not publish a statement that constitutes, or could reasonably be understood as, an invitation to the public to attend at the licensed premises of the club.”. Restriction on advertising by club

24. Section 94 of the Principal Ordinance is repealed and the following sections are substituted:

“94. (1) The Registrar shall not issue a licence unless the fee payable under this Part for the issue of the licence has been paid to him. Payment of licence fees

“(2) The Registrar shall not renew a licence unless—

- (a) in the case of a licence that is to be renewed for a period less than 6 months—the fee payable under this Part for the renewal of the licence has been paid to him; and
- (b) in any other case, either—
 - (i) the fee payable under this Part for the renewal of the licence has been paid to him; or
 - (ii) an amount equal to one-half of the fee referred to in subparagraph (i) has been paid to him.

Payment of
balance of
renewal fee

“94A. (1) In this section—

‘due date’, in relation to a renewal instalment, means the date on which the renewal instalment becomes due in accordance with sub-section (3);

‘renewal instalment’ means an amount of money that is payable by virtue of sub-section (2).

“(2) Where—

(a) an amount equal to one-half of the fee payable under this Part for the renewal of a licence has been paid to the Registrar; and

(b) the Registrar has renewed the licence,

the licensee is liable to pay to the Commonwealth an amount equal to the amount of the fee referred to in paragraph (a) that remains unpaid.

“(3) For the purpose of section 34 of the *Interpretation Ordinance* 1967, a renewal instalment becomes due on the first day of June next following the date on which the instalment became payable.

“(4) Where a licensee fails to pay a renewal instalment on or before the due date for the instalment, the licence held by that licensee ceases to be in force at the expiration of the day that is that due date.

“(5) Where, by virtue of sub-section (4), a licence has ceased to be in force, a further licence shall not be issued to the person who held the first-mentioned licence when it ceased to be in force unless all amounts payable under this section in relation to the renewal of the first-mentioned licence have been paid.”.

Fees for
renewal of
licences

25. Section 96 of the Principal Ordinance is amended—

(a) by omitting sub-sections (1), (2) and (3) and substituting the following sub-sections:

“(1) In this section, ‘relevant period’, in relation to the renewal of a licence, means the financial year last preceding the date on which the licence would, but for its renewal, cease to be in force.

“(2) Subject to this section, the fee payable for the renewal of a General Licence, an On Licence or a Club Licence is the amount that equals 8 per cent of the aggregate of the amounts (including duties) paid or payable by the licensee for liquor purchased by the licensee during the relevant period for disposal in pursuance of the licence.

“(3) Subject to this section, the fee payable for the renewal of an Off Licence is the amount that equals 8 per cent of the difference between—

(a) the aggregate of the amounts (including duties) paid or payable by the licensee for liquor purchased by the licensee during the relevant period for disposal in pursuance of the licence; and

- (b) the aggregate of the amounts (including duties) paid or payable by the licensee for liquor (whenever purchased) sold by him during the relevant period to—
- (i) holders of licences or permits;
 - (ii) the University;
 - (iii) the Canberra College of Advanced Education;
 - (iv) the Canberra Theatre Trust;
 - (v) exempt persons; or
 - (vi) persons who, under the law of a State or another Territory, hold licences authorizing them to sell liquor.”;
- (b) by omitting from paragraph (4) (k) “Legislative” and substituting “House of”; and
- (c) by omitting sub-sections (5), (6) and (7) and substituting the following sub-sections:

“(5) Where, but for this sub-section, the fee payable for the renewal of a licence would be less than the fee payable for the issue of a licence of the same class, the fee payable for the renewal of the licence is a fee equal to the fee payable for the issue of a licence of the same class.

“(6) Where a licence is renewed more than once in the same calendar year, the fee payable for each renewal in that calendar year after the first is \$10.”.

26. Section 99 of the Principal Ordinance is amended—

- (a) by omitting sub-section (3) and substituting the following sub-section:

Approval of
alteration of
premises

“(3) An applicant for approval under this section shall lodge with the Registrar, with his application, a copy of the plans and specifications for the alteration of the premises having attached to it, or inscribed on it, a memorandum in accordance with sub-section 33 (6) of the *Building Ordinance* 1972.”;

- (b) by omitting from sub-section (4) “documents referred to in paragraphs (3) (a) and (3) (b)” and substituting “plans and specifications referred to in sub-section (3)”;
- (c) by omitting sub-section (12) and substituting the following sub-section:

“(12) Where the Board grants its approval of an alteration of licensed premises, the holder of the licence shall not, until the Board declares the alterations to have been completed, conduct his business on the licensed premises except in accordance with arrangements approved by the Board.”.

Licenses to
keep records
of liquor
purchases,
&c.

27. Section 100 of the Principal Ordinance is amended by omitting sub-sections (5) and (6) and substituting the following sub-section:

“(5) A record kept by the licensee for the purposes of this section shall be retained by the licensee for a period of not less than 2 years after the date shown on the record for the purpose of paragraph (2) (b).”

Surrender of
cancelled
and
suspended
licences

28. Section 101 of the Principal Ordinance is amended by omitting “by the Supreme Court” from sub-section (2).

Payment of
amount
where
licence
ceases to be
in force

29. Section 101A of the Principal Ordinance is amended—

(a) by omitting sub-sections (1) to (4) (inclusive) and substituting the following sub-sections:

“(1) In this section—

‘exempt person’ means a person referred to in sub-section 96 (4);

‘relevant period’, in relation to a licence that has ceased to be in force, means—

(a) in the case of a licence that had never been renewed—the period during which the licence was in force;

(b) in the case of a licence that had been renewed in the financial year in which the licence ceased to be in force—the period that commenced at the commencement of that financial year and ended on the date on which the licence ceased to be in force; and

(c) in any other case—the period that commenced at the commencement of the financial year last preceding the calendar year in which the licence ceased to be in force and ended on the date on which the licence ceased to be in force.

“(2) Where a licence has ceased to be in force, otherwise than by virtue of the suspension of the licence, there is due to the Commonwealth by the person who held the licence an amount calculated in accordance with this section.

“(3) Where a General Licence, an On Licence or a Club Licence has ceased to be in force, the amount due under this section is an amount equal to 8 per cent of the aggregate of the amounts (including duties) paid or payable by the person who held the licence for liquor purchased by him during the relevant period for disposal in pursuance of the licence.

“(4) Where an Off Licence has ceased to be in force, the amount due under this section is an amount equal to 8 per cent of the difference between—

- (a) the aggregate of the amounts (including duties) paid or payable by the person who held the licence for liquor purchased by him during the relevant period for disposal in pursuance of the licence; and
- (b) the aggregate of the amounts (including duties) paid or payable by the person for liquor purchased by him at any time and sold by him during the relevant period to—
 - (i) holders of licences or permits;
 - (ii) the University;
 - (iii) the Canberra College of Advanced Education;
 - (iv) the Canberra Theatre Trust;
 - (v) exempt persons; or
 - (vi) persons who, under the law of a State or another Territory, hold licences authorizing them to sell liquor.”;
- (b) by omitting sub-section (6);
- (c) by omitting “by the Supreme Court” from sub-section (7); and
- (d) by adding at the end thereof the following sub-sections:

“(8) Where an amount due under this section by one person has not been paid in full, the Registrar shall not issue a licence to, or renew a licence held by, that person except with the leave of the Board.

“(9) The Board shall not grant leave for the purpose of sub-section (8) unless the person by whom the amount is due under this section has made arrangements to the satisfaction of the Board for the payment, whether by instalments or otherwise, of the whole of the amount so payable.

“(10) Where—

- (a) an amount due under this section is due by two or more persons; and
- (b) the amount has not been paid in full,

the Registrar shall not issue a licence to, or renew a licence held by, any of those persons except with the leave of the Board.

“(11) The Board shall not grant leave for the purpose of sub-section (10) unless the person in respect of whom leave is sought has made arrangements to the satisfaction of the Board for the payment, whether by instalments or otherwise, of—

- (a) the whole of the amount due under this section; or
- (b) if, in the circumstances of the case, it would be unfair to require payment of the whole of that amount, an amount calculated by reference to the formula—

A
—
B

where—

A is the amount due under this section; and

B is the number of persons by whom that amount is due.”.

30. After section 102 of the Principal Ordinance the following section is inserted:

Petrol not to be sold at licensed premises

“102A. (1) Subject to sub-section (2), a person who is the holder of a licence shall not sell petrol at the premises to which the licence relates.

“(2) Nothing in sub-section (1) prohibits the sale of petrol at premises, being—

- (a) Block 13 or 14 of Section 2 of the district of Hall; or
- (b) Block 72 of the district of Paddy’s River.”.

Offences

31. Section 103 of the Principal Ordinance is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) Proceedings in respect of an offence against this Ordinance shall not be instituted except—

- (a) in the case of an offence against section 80, 81, 82, 83 or 84—by the Registrar or a member of the Police Force of the Territory; and
- (b) in any other case—by the Registrar.”.

32. After section 103 of the Principal Ordinance the following section is inserted:

Evidence

“103A. (1) In any proceedings in a court, a certificate signed by the Registrar and stating—

- (a) that, on the day, or on each of the days, specified in the certificate, a person specified in the certificate was the holder of a licence of the kind specified in the certificate in respect of the premises specified in the certificate; or
- (b) that, on the day, or on each of the days, specified in the certificate, a person specified in the certificate was the holder of a permit in relation to the premises specified in the certificate,

is evidence of the matters so stated.

“(2) For the purpose of sub-section (1), a document that purports to be signed by the Registrar shall, unless the contrary is proved, be taken to have been so signed.”.

33. Section 105 of the Principal Ordinance is repealed and the following section substituted:

“105. Subject to the regulations, a document that is required or permitted to be given or delivered to a person may be given or delivered to the person by post addressed to the person at his address last known to the person giving or delivering the document.”

Delivery,
&c., of
documents
by post

34. Section 110 of the Principal Ordinance is repealed.

Repeal

35. (1) Subject to sub-section (2), where a provision of the Principal Ordinance refers to another Ordinance by means of a method of citation that contains figures referring to 2 years, that provision is amended by omitting so much of that method of citation as follows the reference to the first of those years.

References
to other
Ordinances

(2) Sub-section (1) does not apply to—

- (a) sub-section 4 (1) of the Principal Ordinance in relation to the reference, in the definition of “repealed Ordinance”, to the *Liquor Ordinance 1929-1975*; or
- (b) the Schedule to the Principal Ordinance.

36. (1) The amendments effected by this Ordinance do not apply to or in relation to an application for a licence or permit made before 1 June 1979 or to the issue of a licence or permit in connection with such an application.

Saving and
transitional
provisions

(2) The Principal Ordinance, as in force immediately before 1 June 1979, continues to apply to and in relation to an application made before that date and to the issue of a licence or permit in connection with such an application.

(3) Notwithstanding section 37 of the Principal Ordinance, as amended by this Ordinance, a licence that was in force under the Principal Ordinance immediately before the commencement of this Ordinance shall cease to be in force at the expiration of 30 November 1979.

(4) A fee is not payable under section 5 of the Principal Ordinance, as amended by this Ordinance, by—

- (a) the University;
- (b) the Canberra College of Advanced Education; or
- (c) the Canberra Theatre Trust,

in the year 1979.

(5) On and after 1 January 1980, section 5 of the Principal Ordinance, as amended by this Ordinance, shall have effect as if the period of 14 months that commenced on 1 November 1978 were a calendar year.

(6) Section 96 of the Principal Ordinance, as amended by this Ordinance, applies, in relation to the renewal of a licence referred to in sub-section (3) of this section, as if the period of 9 months that commenced on 1 October 1978 were a financial year.

(7) Where, during the year 1979 or the year 1980, a licence ceases to be in force, section 101A of the Principal Ordinance, as amended by this Ordinance, applies as if the period of 9 months that commenced on 1 October 1978 were a financial year.

(8) An expression used in this section has the same meaning as in the Principal Ordinance, as amended by this Ordinance.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 30 May 1979.
2. Ordinance No. 19, 1975 as amended by Nos. 6, 61 and 63, 1976; No. 66, 1977; and Nos. 35 and 46, 1978.