

1993

**THE LEGISLATIVE ASSEMBLY OF THE
AUSTRALIAN CAPITAL TERRITORY**

LIQUOR (AMENDMENT) BILL 1993

EXPLANATORY MEMORANDUM

**Circulated by the authority of the Attorney General
Terry Connolly MLA**

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Outline

This is an amending Bill. It amends the Liquor Act 1975, referred to in the Bill as the Principal Act. The Liquor Act 1975 provides for the constitution of the Liquor Licensing Board, the regulation of the sale of liquor, the issue and cancellation of liquor licences, the regulation of licensed premises and underage drinking.

This Bill amends the Principal Act by introducing provisions relating to the determination and enforcement of occupancy loadings for licensed premises where liquor is consumed on the premises, by enabling the issue of loss of amenity in the vicinity of licensed premises to be dealt with as part of the complaint provisions, by providing the Deputy Registrar of Liquor Licences with the capacity to consider liquor permit applications and by enabling police to institute proceedings for all offences.

Financial considerations

The Bill has no financial implications.

Formal clauses

Clause 1: Short title

This clause provides that the proposed Act may be cited as the Liquor (Amendment) Act 1993.

Clause 2: Commencement

Clause 2 states that sections 1, 2 and 3 of the proposed Act will commence upon notification of the Act in the Gazette and that remaining provisions commence on a date fixed by the Minister by notice in the Gazette. This clause also provides that if a provision referred to in subsection 2 is not commenced within 6 months after notification of the Act in the Gazette then the provision will commence on the first day after the 6 month period.

Clause 3: Principal Act

This clause defines the term "Principal Act" to mean the *Liquor Act 1975*.

Clause 4: Interpretation

This clause amends section 4 of the Principal Act by inserting definitions for "Building Code", "Fire Commissioner", "occupancy loading" and "public area".

Clause 5: Powers of entry

This clause amends section 17 of the Principal Act by providing inspectors and police with powers to count the number of persons in a public area within premises, to direct licensees to remove persons where the premises are overcrowded and to remove persons where the premises are overcrowded and the licensee fails to do so.

Clause 6: Insertion

This clause inserts after section 24 of the Principal Act new sections 24A, 24B and 24C. Section 24A provides for the determination of public areas of premises by the relevant decision maker (either the Registrar or the Liquor Licensing Board) and the notification of such determinations to the Fire Commissioner. Section 24B provides for the Fire Commissioner to assess the occupancy loading for the public areas determined under section 24A and to notify the Registrar in writing of such assessments. On receipt of an assessment the Registrar is required to determine the occupancy loading for each relevant public area in conformity with the Fire Commissioner's assessment. Section 24C provides for the displaying of occupancy loadings at each entrance to each public area of premises in a form approved by the Registrar.

Clause 7: Manner of making complaint

This clause amends section 44 of the Principal Act by adding at the end of subsection (1) paragraph (c). Paragraph (c) allows for complaints to be made to the Registrar regarding the loss of amenity in the vicinity of licensed premises.

Clause 8: Consideration of complaints by Registrar

This clause amends section 45 of the Principal Act by adding at the end subsections (2) and (3). Subsection (2) enables the Registrar to convene a meeting between a complainant and a licensee to attempt to resolve a matter complained of under subsection 44(1)(c). Subsection (3) enables the Registrar to issue to the licensee directions, having the same power as directions issued by the Board under section 46, for the implementation of a resolution reached at a meeting convened under subsection (2).

Clause 9: Consideration of application

This clause amends section 46 of the Principal Act by inserting after paragraph (1)(e) paragraph (1)(f). Paragraph (1)(f) allows the Board to issue directions to a licensee if it is satisfied on reasonable grounds that a loss of amenity in the vicinity of licensed premises has arisen from the conduct of licensed premises.

Clause 10: Consideration of application

This clause amends section 63 of the Principal Act by adding at the end subsection(3). Subsection (3) provides that the Registrar may direct the Deputy Registrar to consider liquor permit applications.

Clause 11: Insertion

This clause inserts after section 93 of the Principal Act in Part X sections 93A, 93B and 93C. Subsection 93A provides a penalty of \$5,000 for a licensee who permits, without reasonable excuse, the number of persons in a public area of the premises to exceed the relevant occupancy loading. Subsection 93B provides a penalty of \$1,000 for a licensee who fails, without reasonable excuse, to display an occupancy loading sign in accordance with section 24C. Subsection 93C provides a penalty of \$5,000 for a licensee who fails, without reasonable excuse, to comply with a direction under paragraph 17(4)(e) to require patrons to leave a public area within the licensed premises.

Clause 12: Review by Tribunal

This clause amends section 104 of the Principal Act by inserting before paragraph (a) paragraphs (aa) and (ab). Paragraphs (aa) and (ab) provide for an application to be made to the Australian Capital Territory Administrative Appeals Tribunal for a review of a decision of the relevant decision maker in respect of the determination of a public area under section 24A and of an occupancy loading under section 24B respectively.

Clause 13: Notification of decisions

This clause amends section 104A of the Principal Act by inserting (aa) and (ab) in paragraph (1)(a) after 104. This amendment requires the relevant decision maker to give notification of a decision in respect of a public area and an occupancy loading to the licensee.

Clause 14: Repeal and substitution

This clause repeals section 105 of the Principal Act and substitutes a new section 105 that provides that proceedings in respect of an offence against the Principal Act shall not be instituted except by the Registrar or a police officer.