

AUSTRALIAN CAPITAL TERRITORY

LIQUOR (AMENDMENT) ORDINANCE 1979

Explanatory Statement

ORDINANCE NO. 10 OF 1979

The Liquor (Amendment) Ordinance 1979 incorporates the first comprehensive set of amendments to the Liquor Ordinance 1975 since its enactment.

Sections 1 to 4 provide for citation and commencement (1 June 1979) and necessary definitions.

Section 5 provides that the sale of liquor on premises on which meetings of the House of Assembly are held is excluded from the operation of the Ordinance. (The sale of liquor at Parliament House has always been excluded from the operation of the Ordinance.) It also provides that the date on which fees are payable by the University, Canberra College of Advanced Education, and the Canberra Theatre Trust will be changed from 31 of December to the 30 of June for administrative convenience.

Section 6 deals with the administrative matters. One of the Liquor Licensing Board members present at a Board meeting will preside when the Chairman is absent. Two members only will constitute a quorum, and provision has been made for the resignation of a member.

Section 7 provides for the procedure to be followed when a member of the Board resigns.

Section 8 provides for the change in name of the Legislative Assembly to House of Assembly in section 12 of the Principal Ordinance which deals with acting appointments.

Section 9 provides that at future meetings of the Board if the members present are equally divided, the question will be taken to be decided in favour of the applicant.

Section 10 makes provision for the appointment of a deputy of the member from the Assembly, to assist the Board to obtain a quorum for meetings.

Section 11 allows the Minister to appoint a Deputy Registrar for administrative convenience when the Registrar is absent.

Section 12 clarifies the powers of entry and inspection of liquor inspectors. In particular liquor inspectors will now be empowered to enter premises on which they believe on reasonable grounds liquor is being sold without a licence or permit. Their powers relating to the collection of samples has also been clarified.

Section 13 relates to the Licensing Standards Manual. The Liquor Licensing Board has power to cause a Licensing Standards Manual to be prepared. A copy of

the Manual must be delivered to the Minister and Legislative Assembly after preparation. The Minister may disallow it in whole or in part. Section 13 provides for the change in name of the Legislative Assembly to House of Assembly in section 20 of the Principal Ordinance.

Sections 14 and 15 strengthen the sections which relate to club licences. Guests of a member are only permitted to remain on club premises while their host member is on the premises and new clubs seeking licences will be required to incorporate this limitation in their constitutions. Clubs will have to have a financial membership of 200 members who have attained the age of 18 years, to enable them to obtain or renew a licence. Clubs will not be permitted to advertise in such a way, as could constitute an invitation to the public to attend a club function.

Section 16 amends the provisions relating to the duration of a licence. All licences will now remain in force until 30 November unless otherwise provided, for administrative convenience.

Section 17 will prevent the Board from giving the licensee a direction where the licensee satisfies the Board that he took reasonable measures to ensure he performed his obligation.

Section 18 deals with permits. A permit authorizes the holder of the permit, during a stated period and at the place stated in the permit to sell liquor for consumption at that place. Permits will stipulate the purchase value of the liquor to the permit holder. Permit fees have been altered. Where the value of liquor specified in the permit exceeds \$125 the fee payable is an amount equal to 8 per cent of the price so specified and in any other case \$10. The provisions relating to the application and issue of permits have been clarified. Where the Registrar is of the opinion that there may be facts or circumstances that entitle the Board to decline to direct the issue of a permit, the Registrar has to submit the application and a report to the Chairman of the Liquor Licensing Board for consideration at a Board meeting. The Board may then direct the Registrar to issue the permit or conduct a hearing. The Board has the power to issue a permit subject to such conditions as the Board thinks necessary to protect the public interest. The seller of liquor to a permit holder has to endorse particulars of the sale on the permit. The permit holder will be able to obtain the return of the permit fee where the entertainment anticipated is not proceeded with.

Section 19 clarifies the position with regard to non-trading days and applications by licensees to the Board for closure. Where a licensee elects to remain open on an optional non-trading day he has to remain open for the minimum bar trading hours. Days which are to be non-trading days are set out.

Section 20 ensures that the licensee has food available for sale when a bar-room is open. Previously the licensee had only to take reasonable measures to ensure that he had food on sale.

Section 21 provides that all licensees must keep their premises clean, previously these provisions were limited to General and On Licences.

Section 22 expands the grounds for appeals to the Supreme Court arising out of decisions of the Liquor Licensing Board.

Section 23 prohibits the sale of liquor by un-licensed persons and excludes the operation of the Ordinance from entertainments to which particular persons (not exceeding 30 in number) have been invited. It also limits the sale of liquor by a licensed club to persons on the licensed premises of the club who are club members or persons in the club at the invitation of a member of a club.

Sections 24 and 25 revise the sections which relate to payment of licence fees and renewal of licences. Licensees are now permitted to elect to pay renewal fees by two instalments. If a licensee fails to pay a renewal instalment on or before the due date the licence ceases to be in force at the expiration of the day that is the due date. A further licence will not be issued to the licensee who has failed to pay a renewal instalment until the outstanding amount is paid. The “relevant period” over which renewal fees are assessed is to be changed to the financial year. The calculation of the fee payable for the renewal of an Off Licence in future does not include liquor sold to persons licensed in another State or Territory to sell liquor.

Section 26 sets out the procedure to be followed by licensee applicants who wish to alter their licensed premises. The Board has been given the power to prevent a licensee conducting his business from licensed premises which have undergone alteration. This ensures that although the Building Ordinance has been complied with, the Board has the power to ensure that the requirements of the Liquor Manual have been complied with.

Section 27 ensures that licensees keep records of purchases for not less than 2 years.

Section 28 allows for the Registrar to return a licence to the licensee where a cancellation or suspension of a licence has been set aside.

Section 29 clarifies the position of payment of amounts where a licence ceases to be in force, otherwise than by virtue of suspension, and sets out the manner in which it is to be calculated. It also provides that the Registrar shall not issue a licence to an individual until any amounts due have been made or arrangements to do so have been made with the Board. Where the amount payable is due by two or more persons and has not been paid in full, the Registrar shall not issue a new licence except with the leave of the Board. The Board may consider the circumstances and determine whether in the circumstances it would be unfair to require payment of more than the applicant’s proportion.

Section 30 clarifies the position relating to licensed premises from which petrol may be sold. Previously an error existed in the title description of the Tharwa store.

Section 31 gives a member of the Police Force power to institute proceedings where an offence against sections 80, 81, 82, 83 or 84 of the Principal Ordinance has been committed. These provisions relate to the sale of liquor to young persons, consumption of liquor by young persons on licensed premises and in public places,

and the prohibition of young persons under 18 entering bar-rooms. Previously only the Registrar could institute proceedings under the Ordinance.

Section 32 makes a certificate signed by the Registrar and stating the particulars of a licence or permit to be evidence of the matter so stated.

Catalogue No. 11753/79