

AUSTRALIAN CAPITAL TERRITORY

LIQUOR ORDINANCE 1956.

EXPLANATORY MEMORANDUM

No. 3 of 1956

This Ordinance makes a number of amendments to the present Ordinance, some being matters of principle, some to facilitate administration, and some to simplify or clarify provisions.

- (a) The definition of “boarder” is omitted as a boarder has no rights not available to the public generally.
- (b) Naval and military establishments are exempted from the provisions of the Ordinance. This exemption is being extended to air force establishments.
- (c) Under section 15(4), liquor could not be delivered to a customer and payment received on delivery. The sub-section is being amended to permit delivery without restriction of liquor lawfully sold by a licensee. Hawking of liquor is prohibited by the Hawking Ordinance 1936-1948.
- (d) References to the Chief Officer of Police are being brought up to date by amending them to references to the Chief Commissioner of Police.
- (e) Provision is made for two new types of licence:-

Liquor Merchants’ Licences.

These will enable sales to be made to the trade or to private individuals in quantities of not less than two gallons of liquor. Sales may be made during shop trading hours, not hotel hours. Liquor may not be consumed on the premises.

Community Hotel Licences.

These may be granted to companies, bodies of persons or public authorities approved by the Minister. Profits may be used only for the improvement of the hotel or for specified public purposes. The Minister may direct the purpose for which profits are to be used, and financial statements are to be submitted to the Minister annually. The Minister may postpone for such period as he thinks fit the requirement that bedrooms for public accommodation shall be provided at the hotel.

In other respects a community hotel will be equivalent to a residential hotel.

- (f) The sections specifying the fees to be paid for licences were expressed in various ways. They have all been re-drafted in a uniform pattern. There will be no change in the fees.
- (g) Subsections (3) to (6) of section 24, dealing with Booth Licences, have been re-drafted to clarify their intention. The present section requires the proceeds of a booth to be retained by the licensee. The amendment will permit the proceeds to be given to a charitable organization approved by the Magistrate.
- (h) Club licences at present may be issued only in the name of the secretary of the club. This has led to difficulties and it is proposed that a club licence should be granted to a person designated by resolution of the committee of the club.
- (i) At present there is no provision for an alteration in the name of licensed premises. The Registrar is to be empowered to amend a licence to record such a change.
- (j) Under the present Ordinance, liquor may not be sold to or consumed on licensed premises or under a special permit by a female under the age of twenty-one years. This is being amended to make the age eighteen, the same as for males.
- (k) Under the Ordinance at present, the licensee is the only person who can apply to have the limits of his licensed premises changed. There are cases in which it is desirable that the Licensing Inspector should have the right to make such an application and this amendment will give it to him.
- (l) At present, a licence may be granted to the lessee or occupier of premises, or the nominee of the lessee or occupier. A licence may be granted to a body corporate or a partnership, but in that case, a nominee must be appointed to represent it. In most

cases, the occupier of the premises is a company, and there has been some confusion in that the company could hold the licence, with a nominee, or the nominee could hold the licence on behalf of the company. Following this amendment, the lessee or occupier (unless it is a partnership) must hold the licence. If the lessee or occupier is a company, the company must hold the licence, but a nominee to represent it must be appointed. A partnership will no longer be able to hold a licence, but must nominate a partner or another person to hold the licence on its behalf.

(m) Section 43A, which makes it an offence to sell more than two and a quarter gallons of bottled liquor to one person on one day is being repealed, as there is no point in such a restriction.

(n) Under section 43C it is an offence to drink liquor on licensed premises except in a building. One effect of this, not anticipated when the section was introduced, is that it makes beer gardens illegal. The section is being amended so that liquor may be drunk lawfully anywhere on licensed premises. Beer gardens may now be provided, and if there is any part of the premises on which it is not desirable that liquor should be drunk, it is open to the Licensing Inspector to apply to the Court to have the limits of the licensed premises varied.

(o) Because of section 43E, a hotel which has no bar is not able to trade at all. The new motel in course of erection is applying for a residential hotel licence, but it does not propose to have a bar. This amendment will enable an effective licence to be granted to a hotel without a bar.

(p) Section 45, which makes it an offence for a person, body corporate or firm to have a beneficial interest in more than one licence (except Grocers' Licences) and section 45A forbidding the issue of a licence to a person, body corporate or firm which manufactures liquor, are to be repealed. They are either unnecessary or ineffective and similar provisions were commented on adversely by Maxwell J. in his report as a Royal Commissioner into the liquor trade in N.S.W.

(q) It has been found that hotelkeepers could not be prosecuted under section 58(2) for refusing to supply meals or accommodation because a reasonable sum had not been tendered in payment. Section 58A imposes a liability on the person supplied to pay for meals or accommodation, so the requirement that a reasonable sum should be tendered is being omitted from section 58(2).

(r) Section 61, relating to prohibition orders, has been revised and clarified. The existing section applies when a person habitually drinks liquor to excess, and the

procedure is not very clear. Under the revised section, it must be shown that the person, by the excessive consumption of liquor wastes his means or injures or is likely to injure his health, or endangers or interrupts the peace, welfare or happiness of his family, and the procedure is set out in some detail.