

NORTHERN TERRITORY OF AUSTRALIA

LIQUOR AMENDMENT ACT 2002

Act No. 76 of 2002

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 76 of 2002

AN ACT

to amend the *Liquor Act*

[Assented to 11 December 2002]
[Second reading 16 October 2002]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Liquor Amendment Act 2002*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *Liquor Act* is in this Act referred to as the Principal Act.

4. Body corporate as licensee

Section 25 of the Principal Act is amended by omitting from subsection (4) "pursuant to section 48" and substituting "under Part IV".

5. Decision after consideration of application

Section 29 of the Principal Act is amended –

- (a) by omitting from subsection (1)(a) "48" and substituting "47F";

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- (b) by omitting from subsection (1)(b) "by the Commission pursuant to section 49(2)(a) or (b)" and substituting "under Part IV";
- (c) by omitting from subsection (3) "pursuant to subsection (2)(c) or section 49(2)(c), in relation to an application for a licence," and substituting "in relation to an application for a licence under subsection (2)(c) or Part IV"; and
- (d) by omitting from subsection (3) "section 49" and substituting "Part IV".

6. New sections

The Principal Act is amended by inserting before section 48 in Part IV the following:

"47F. Person etc. may object to application for licence

"(1) Subject to this section, a person, organisation or group may make an objection to an application for the grant of a licence.

"(2) An objection under subsection (1) may only be made on the ground that the grant of the licence may or will adversely affect the amenity of the neighbourhood where the premises the subject of the application are or will be located.

"(3) Only the following persons, organisations or groups may make an objection under subsection (1):

- (a) a person residing or working in the neighbourhood where the premises the subject of the application are or will be located;
- (b) a person holding an estate in fee simple in land, or a lease over land, in the neighbourhood where the premises the subject of the application are or will be located;
- (c) a member of the Police Force;
- (d) a member of the Fire and Rescue Service within the meaning of the *Fire and Emergency Act*;
- (e) an Agency or a public authority that performs functions relating to public amenities;
- (f) a community-based organisation or group (for example, a local action group or a charity).

"(4) An objection under subsection (1) is to –

- (a) be in writing;

- (b) be signed by or on behalf of the person, organisation or group making the objection;
- (c) set out the facts relied on by the person, organisation or group to constitute the ground on which the objection is made; and
- (d) be lodged with the Director within 30 days after the publication of the notice or the last of the notices referred to in section 27.

"(5) If an objection is lodged by post, the objection is taken to be duly lodged with the Director if it is delivered to an office of Australia Post for transmission to the office of the Director within the period referred to in subsection (4)(d).

"47G. Applicant to be given opportunity to reply to objection

"If an objection to an application is lodged with the Director under section 47F, the Director must, within 5 days after the expiry of the 30 day period referred to in section 47F(4)(d), inform the applicant to whom the objection relates of the substance of the objection and give the applicant sufficient opportunity to provide a written reply to the objection.

"47H. Facts specified as constituting objection delimits inquiry etc. in relation to objection

"A person, organisation or group who or which objects to an application under section 47F may not, in the course of any determination, inquiry, review or hearing under this Act or the *Northern Territory Licensing Commission Act* in relation to the person's, organisation's or group's objection, rely on any facts other than the facts specified in the objection as the facts constituting the ground on which the objection is made.

"47I. Decision on whether objection to proceed to hearing

"(1) The Director must forward an objection and the reply to the objection (if any) to the Chairperson.

"(2) On receiving the objection and the reply to the objection, the Chairperson must select a member to consider the substance of the objection.

"(3) The member selected under subsection (2) –

- (a) must consider the objection and the reply to the objection;
- (b) may inquire into any circumstance relating to the objection as he or she considers appropriate; and
- (c) must –

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- (i) if the member is satisfied that the objection is of a frivolous, irrelevant or malicious nature, or does not describe circumstances that may or will adversely affect the amenity of the neighbourhood – dismiss the objection; or
- (ii) determine that the Commission must conduct a hearing in relation to the objection and forward the objection, reply to the objection and his or her findings in relation to the objection to the Commission.

"(4) If the member dismisses the objection under subsection (3)(c)(i), he or she must direct the Director to inform the person, organisation or group who made the objection that the objection has been dismissed.

"(5) The Director must inform the person, organisation or group that the objection has been dismissed by notice in writing as soon as practicable after receiving the member's direction.

"(6) The notice to the person, organisation or group is to include the member's reasons for dismissing the objection.

"(7) If the member determines under subsection (3)(c)(ii) that the Commission must conduct a hearing, the Commission must conduct the hearing.

"47J. Review of member's decision to dismiss objection

"(1) If a member dismisses an objection under section 47I(3)(c)(i), the person, organisation or group who made the objection may apply to the Commission for a review of the member's decision.

"(2) An application for review is to –

- (a) be in writing;
- (b) be signed by or on behalf of the person, organisation or group who made the objection;
- (c) set out the grounds on which the application for review is made and the facts relied on to establish the grounds; and
- (d) be lodged with the Director within 14 days after the person, organisation or group received notice of the member's decision to dismiss the objection.

"(3) The Commission must review the member's decision in a manner that is fair and expeditious and must give proper consideration to the issues.

"(4) After determining the review, the Commission must, by notice in writing to the person, organisation or group who applied for the review –

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- (a) affirm the member's decision to dismiss the objection; or
- (b) revoke the member's decision and conduct a hearing in relation to the objection.

"(5) If the Commission affirms the member's decision, the Commission must specify its reasons for doing so in the notice.

"(6) A decision of the Commission under subsection (4) –

- (a) is not a decision referred to in section 56; and
- (b) may be reviewed under Part 4 of the *Northern Territory Licensing Commission Act*."

7. Complaints

Sections 48 of the Principal Act is amended –

- (a) by omitting subsections (1) and (1A);
- (b) by omitting from subsection (3) "An objection or" and substituting "A";
- (c) by omitting from subsection (3)(b) "objection or";
- (d) by omitting subsections (4) and (5); and
- (e) by omitting subsection (6) and substituting the following:

"(6) Where a complaint is lodged with the Director under this section, he or she must, as soon as is reasonably practicable –

- (a) inform the licensee of the substance of the complaint and give the licensee an opportunity to comment in writing on the substance of the complaint;
- (b) conduct the investigations of the substance of the complaint as he or she considers appropriate; and
- (c) forward the comments (if any) he or she receives pursuant to paragraph (a) and the results of his or her investigations under paragraph (b) to the Commission."

8. Decision on consideration of complaint

Section 49 of the Principal Act is amended –

- (a) by omitting from subsection (1) "an objection or complaint" and substituting "a complaint"; and

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(b) by omitting subsection (2) and substituting the following:

"(2) The Commission must consider a complaint, the report or reports of the Director and any comments forwarded to the Commission under section 48(6) and must –

- (a) if the Commission is of the opinion that the complaint is of a frivolous, irrelevant or malicious nature – dismiss the complaint and direct the Director to inform the person who made the complaint that the complaint has been dismissed;
- (b) direct the Director to inform the person who made the complaint that the complaint has been investigated but no further action is warranted; or
- (c) conduct a hearing in relation to the complaint."

9. Procedure at hearing

Section 51 of the Principal Act is amended by omitting from subsection (11)(b) and (c) "section 48" and substituting "Part IV".

10. Delivery of documents by post

Section 125 of the Principal Act is amended by omitting "the provisions of section 48(5) and the regulations" and substituting "section 47F(5) and the Regulations".

11. Transitional

If, before the commencement of this Act, a person lodges an application for the grant of a licence under section 26 of the Principal Act, any objections to the application (whether made before, on or after that commencement) are to be made and dealt with in accordance with the Principal Act as in force before that commencement.